

CALZADA

VS

ROY CITY

DENTON HARPER

December 05, 2018



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Salt Lake City, Utah 84101  
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December 05, 2018

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UNITED STATES DISTRICT COURT

DISTRICT OF UTAH NORTHERN DIVISION

\_\_\_\_\_)  
1 MARIA CALZADA, et al., )  
2 )  
3 Plaintiffs, )  
4 ) Civil No. 1:16-CV-165  
5 vs. )  
6 ) Honorable David Nuffer  
7 ROY CITY, et al., )  
8 )  
Defendants. )  
\_\_\_\_\_)

DEPOSITION OF DENTON HARPER

**COPY**

16 Location: Weber County Sheriff's Office  
17 721 West 12th Street  
18 Ogden, Utah 84404

19 Date: Wednesday, December 5, 2018

20 Time: 2:10 p.m. to 5:11 p.m.

21 Reported by Teena Green, RPR, CRR, CBC  
22  
23  
24  
25

December 05, 2018

APPEARANCES			E X H I B I T S			
			No.	Description	Page	
1	2	FOR THE PLAINTIFF:	3	4	33	
2	3	MELINDA CHECKETTS HIBBERT, ESQ.	4	Weber County Sheriff's Office	33	
3	4	L. MILES LEBARON, ESQ.	5	General Offense Hardcopy		
4	5	LEBARON & JENSEN, P.C.	6	2 of 43		
5	7	1513 North Hill Field Road, Suite 1	7	(1 page)		
6	8	Layton, Utah 84041	9	PREVIOUSLY MARKED EXHIBITS REFERRED TO		
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10	13	FOR THE DEFENDANT:	14	32-43		
11	15	FRANK D. MYLAR, ESQ.	15	(12 pages)		
12	16	MYLAR LAW, P.C.	16	3	Weber County Sheriff's Office	
13	17	2494 East Bengal Boulevard	17	CAD Call Hardcopy 1-37 (of 49)	57	
14	18	Salt Lake City, Utah 858-0700	18	(37 pages)		
15	19	mylar-law@comcast.net	19	14	Color photo 0392	42
16	20	ALSO PRESENT: LIBUTENANT JEFF PLEDGER	21	(1 page)		
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21		Examination by Mr. Mylar		17	Color photo 0442	105
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23		Further Examination by Mr. Mylar		18	Color copy of photo (1 page)	93
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1	December 5, 2018	2:10 p.m.	4	1	was more of a suicide-type thing, but...
2	P R O C E E D I N G S		2	2	<b>Q. As opposed to like -- it wasn't a shooting?</b>
3	DENTON HARPER,		3	3	A. Correct.
4	called as a witness for and on behalf of plaintiff,		4	4	<b>Q. And how was it you say he intentionally</b>
5	being first duly sworn, was examined and testified as		5	5	<b>crashed his vehicle?</b>
6	follows:		6	6	A. Well, he ran off the road going at a very
7	EXAMINATION		7	7	high rate of speed intentionally.
8	BY MS. CHECKETTS HIBBERT:		8	8	<b>Q. And we're going to come back to that. I'm</b>
9	<b>Q. Will you please state your full name.</b>		9	9	<b>going to go over some of the ground rules, if you</b>
10	A. Denton Harper.		10	10	<b>will, of the deposition.</b>
11	<b>Q. And, Mr. Harper, have you ever had your</b>		11	11	<b>You've had your deposition taken before;</b>
12	<b>deposition taken before?</b>		12	12	<b>correct?</b>
13	A. Yes, I have.		13	13	A. Correct.
14	<b>Q. How many times?</b>		14	14	<b>Q. And I'm sure that you've spoken with your</b>
15	A. Once.		15	15	<b>attorney about this deposition. And so you're aware</b>
16	<b>Q. And could you tell me what that was in</b>		16	16	<b>that we have a court reporter taking down every word</b>
17	<b>relation to?</b>		17	17	<b>that's said here.</b>
18	A. Geez, I'm thinking of the year, but it was		18	18	A. Uh-huh. (In the affirmative.)
19	in relation to a vehicle pursuit where a subject lost		19	19	<b>Q. And the "uh-huh," if I could get you to</b>
20	his life.		20	20	<b>answer with a word such as "yes" or "no" or even</b>
21	<b>Q. Were you driving one of the vehicles?</b>		21	21	<b>"okay," it's better than "uh-huhs" and "huh-uhs,"</b>
22	A. A patrol vehicle, yes.		22	22	<b>because that's just hard to transcribe.</b>
23	<b>Q. And how was it that the subject lost his</b>		23	23	A. Okay.
24	<b>life? Was it in a motor vehicle accident?</b>		24	24	<b>Q. Also, shakes and nods of the head can't</b>
25	A. He intentionally crashed his vehicle, so it		25	25	<b>be transcribed, so audible responses are good to make</b>

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7

1 a clear record. Also, in normal everyday  
 2 conversation, we often anticipate what the other  
 3 person is going to say, you know, it just happens.  
 4 And so we often interrupt or cut off each other. And  
 5 it's not considered rude or -- it's just how we  
 6 communicate, except for it makes it very difficult  
 7 for the court reporter to get that down.

8 So I'll do my best to try to wait for you to  
 9 finish your response before I speak. And if you'll  
 10 do the same, wait for me to finish speaking before  
 11 you begin speaking, that would be helpful. Okay?

12 A. Okay.

13 Q. Also, I am going to be asking you a lot of  
 14 questions. And I'm not trying to trick you or  
 15 anything like that, I'm just trying to find out what  
 16 happened and get facts. So if I ask you a question  
 17 that you don't understand or if it is in some way  
 18 unclear to you, please ask me to repeat it or  
 19 rephrase it or let me know that you don't understand  
 20 and I'll do my best to try to make the question  
 21 better. Okay?

22 A. Okay.

23 Q. If you do answer, I'll assume you understood  
 24 my question. Okay? Also, there may be times when  
 25 your attorney will object to one of my questions.

6

1 And that's fine, but if he objects, you're still to  
 2 answer my question unless he instructs you not to  
 3 answer.

4 A. Okay.

5 Q. Is there any reason why you can't give your  
 6 best testimony today?

7 A. I don't believe so.

8 Q. Have you taken any medications within the  
 9 past 24 hours?

10 A. No.

11 Q. Have you had any alcohol to drink in the  
 12 past 24 hours?

13 A. No.

14 Q. Okay. We had begun speaking about the  
 15 incident where an individual lost his life in a  
 16 vehicle pursuit. Let's go back to that.

17 Do you remember approximately how long ago  
 18 that was?

19 A. I believe it was in 2012.

20 Q. Just to put it --

21 A. 2010 maybe, even. So it's somewhere in that  
 22 timeframe, it's been a long time ago.

23 Q. Okay. So you realize the reason we're here  
 24 today is we're discussing -- we'll mainly be  
 25 discussing an incident on October 21st, 2014, which

8

9

1 was the shooting of Jose Calzada.  
 2 You understand that?

3 A. Correct.

4 Q. And so you know, I represent the estate of  
 5 Mr. Calzada and its personal representatives, his  
 6 mother and his wife, but just to put it in context,  
 7 the incident involving the man who died in the  
 8 vehicle pursuit, that was before the shooting of  
 9 Mr. Calzada; is that correct?

10 A. Yes.

11 Q. Okay. Now, I believe your prior testimony  
 12 was that the driver of that vehicle who was being  
 13 pursued intentionally drove his car off the road.

14 Why do you say that?

15 MR. MYLAR: Objection, asked and answered.

16 BY MS. CHECKETTS HIBBERT:

17 Q. You may answer.

18 A. Because he was suicidal and he was in a  
 19 stolen vehicle and his -- I was following him for  
 20 around -- I mean I think it ended up being around 50  
 21 seconds is all. He veered his vehicle off the road  
 22 going at a very high rate of speed and made a very  
 23 sharp turn on a two-lane road. So that would be the  
 24 reason I would believe it was suicidal. And he had  
 25 let everybody know that he was suicidal.

1 Q. How had he let everyone know he was  
 2 suicidal?

3 A. His mother called into the police department  
 4 to say he stole a car and he mentioned something  
 5 about he was feeling suicidal.

6 Q. His mother reported that?

7 A. Correct.

8 Q. Did you ever have any verbal communication  
 9 with that subject?

10 A. No.

11 Q. Are you aware if there was any investigation  
 12 of that incident?

13 A. As far as what?

14 Q. Whether or not your actions in the vehicle  
 15 pursuit were appropriate or inappropriate?

16 A. Yes. There was an investigation and it was  
 17 deemed that there was no policy or procedure violated  
 18 and I was clear of any wrongdoing, if that's what  
 19 you're asking.

20 Q. Do you know why your deposition was taken?

21 A. Do I know why? Yes. The family decided a  
 22 couple of years after the fact that they wanted to  
 23 sue the department for whatever reason.

24 Q. Do you think the reason was because their  
 25 son, their family member had died?

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	10	11	
1	MR. MYLAR: Objection, calls for	1	that what you're asking?
2	speculation, calls for a mental impression.	2	<b>Q. Yes.</b>
3	BY MS. CHECKETTS HIBBERT:	3	A. Over a 12-year career, quite a few times,
4	<b>Q. You may answer.</b>	4	yes.
5	A. Could you restate your question.	5	<b>Q. Let's talk about those.</b>
6	<b>Q. You stated that the family had decided to</b>	6	<b>What's the first one that you can remember?</b>
7	<b>sue the department for whatever reason. And I asked,</b>	7	A. I guess I don't understand the question,
8	<b>could it have been because they'd had a family member</b>	8	because I mean I've been a patrol officer for most of
9	<b>killed?</b>	9	those 12 years, probably 11 -- at least 10 of those
10	A. Sure.	10	12 years. And I'm called numerous times, sometimes
11	MR. MYLAR: And, again, same objection,	11	everyday numerous times to suicidal subjects or dead
12	calls for speculation and calls for a mental	12	body investigations or things of that nature.
13	impression.	13	<b>Q. Okay. I'm not talking -- okay. That's</b>
14	BY MS. CHECKETTS HIBBERT:	14	<b>fair. I'm not talking about instances like motor</b>
15	<b>Q. Was there anyone else traveling in the</b>	15	<b>vehicle accidents before there were any law</b>
16	<b>vehicle with you during that vehicle pursuit?</b>	16	<b>enforcement on scene. Okay? So not involving</b>
17	A. No.	17	<b>vehicle pursuits, just two private parties have a</b>
18	<b>Q. Have you been involved in any other</b>	18	<b>motor vehicle accident, I'm not talking about that.</b>
19	<b>incidents where an individual has died during a</b>	19	<b>What I am talking about, where there was any</b>
20	<b>situation in your years as a law enforcement officer?</b>	20	<b>other instances where law enforcement was</b>
21	MR. MYLAR: Objection, vague.	21	<b>investigated as potentially being at fault for the</b>
22	BY MS. CHECKETTS HIBBERT:	22	<b>death.</b>
23	<b>Q. You may answer.</b>	23	MR. MYLAR: Let me be clear. Are you asking
24	A. If the question is if I've ever been	24	whether he was involved in those or just any in
25	involved in any other person that's passed away -- is	25	general?
	12	13	
1	BY MS. CHECKETTS HIBBERT:	1	<b>Q. Is it stressful being on the SWAT team?</b>
2	<b>Q. Well, not unlike Jose Calzada where you're</b>	2	A. Yes, it can be very stressful.
3	<b>not -- no one is suggesting that you shot</b>	3	<b>Q. Did you dislike being on the SWAT team?</b>
4	<b>Mr. Calzada, but you were certainly on scene.</b>	4	A. No. I loved being on the SWAT team.
5	<b>So any instance where you were involved --</b>	5	<b>Q. What did you love about it?</b>
6	A. In other cases?	6	A. Being able to help people, being able to --
7	<b>Q. In other cases, yes.</b>	7	we were always highly trained, we were able to go to
8	A. Yeah. Up to that point, I'm sure there was	8	a number of different trainings that I just wouldn't
9	quite -- there was probably a number of instances	9	have gotten in a patrol. And it's a higher level --
10	where somebody lost their life, whether it was a SWAT	10	it's a high level of police work that, you know, you
11	call-out or something of that nature.	11	should be proud of and hold yourself to a high
12	<b>Q. Are you a part of the SWAT team?</b>	12	standard.
13	A. Am I now? No, I'm not a part of a SWAT team	13	<b>Q. When did you graduate from high school?</b>
14	now.	14	A. I'm sorry. What's that?
15	<b>Q. Why not?</b>	15	<b>Q. When did you graduate from high school?</b>
16	A. Because I'm almost 40 years old and I have	16	A. 1998.
17	four daughters and it's just -- I'm just getting too	17	<b>Q. And after high school, did you have any</b>
18	old. Interests change.	18	<b>education beyond high school?</b>
19	<b>Q. Did the department say you were too old?</b>	19	A. I did.
20	A. I don't -- well, no department's told me I'm	20	<b>Q. What did you have?</b>
21	too old for anything. I made a decision on my own	21	A. I graduated with a Bachelor's degree in
22	that that was one chapter in my life and I don't like	22	history education from Utah Valley State College in
23	to be called out in the middle of the night anymore.	23	2006.
24	And, you know, there's a lot of training that -- I	24	<b>Q. And then what did you do for employment</b>
25	just have kind of closed that chapter in my life.	25	<b>after graduating with your Bachelor's degree?</b>

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	14		15
1	A. I got a job with the Weber County Sheriff's	1	A. No.
2	Office in -- I want to say -- I believe I was hired	2	Q. -- from Weber County?
3	in the early part of 2007.	3	A. No.
4	<b>Q. Did you go through some sort of police</b>	4	<b>Q. Did you leave with any discipline pending</b>
5	<b>academy or law enforcement training?</b>	5	<b>here at the Weber County Sheriff's Office?</b>
6	A. Yes.	6	A. I didn't leave here to go to Salt Lake. I
7	<b>Q. Which one?</b>	7	left here on my own will to go to Ogden City Police
8	A. It was held here at the Sheriff's Office, so	8	Department and was there for three years before I
9	it was a basic police academy.	9	went to Salt Lake City. So I've never left any
10	<b>Q. And so in approximately 2007, you joined the</b>	10	agency with any pending discipline problems or
11	<b>Weber County Sheriff's Office?</b>	11	anything.
12	A. Correct.	12	<b>Q. When did you go over to -- when did you</b>
13	<b>Q. Are you still employed with the Weber County</b>	13	<b>leave Weber County Sheriff's Office to go to Ogden</b>
14	<b>Sheriff's Office?</b>	14	<b>City Police Department?</b>
15	A. No.	15	A. I believe it was in July of 2013.
16	<b>Q. Where are you employed, then?</b>	16	<b>Q. So the incident in question here on</b>
17	A. I am working for the Salt Lake City Police	17	<b>October 21st, 2014, involving Jose Calzada, were you</b>
18	Department.	18	<b>at that time employed by Ogden City Police</b>
19	<b>Q. When did you begin working for them?</b>	19	<b>Department?</b>
20	A. I started working -- let's see. I think it	20	A. That's correct.
21	was March 17th, 2016.	21	<b>Q. Thank you for that clarification.</b>
22	<b>Q. Why did you change positions?</b>	22	<b>What was your position with the Ogden City</b>
23	A. Because they paid much more than I could	23	<b>Police Department in October of 2014?</b>
24	make up here.	24	A. I tried to think of that. I was either on
25	<b>Q. Were you asked to resign --</b>	25	patrol or in their community policing bureau.
	16		17
1	<b>Q. And at that time, you were on the SWAT team; correct?</b>	1	<b>Q. Which weapons were you trained on?</b>
2	A. Correct.	2	A. I trained on a duty pistol. I mean I know
3	<b>Q. And when did you first join the SWAT team</b>	3	it was a Glock. If you want specifics, you might
4	<b>or -- is that the term you'd use or --</b>	4	have to talk to somebody else, because I'm not the
5	A. Sure.	5	biggest -- I don't have all the knowledge of guns,
6	The summer of 2008.	6	but you're trained on firearms with your pistol,
7	<b>Q. So within a year of being hired?</b>	7	you're trained on a long rifle or -- you know, which
8	A. Correct.	8	could be an AR15. You're trained on shotgun work,
9	<b>Q. Do you know how you were selected for the</b>	9	trained on some other things.
10	<b>SWAT team?</b>	10	<b>Q. Did you receive some sort of certification</b>
11	A. I know, yes. There's numerous physical	11	<b>allowing you to use the Glock or the handgun?</b>
12	requirements and there's even a selection day where	12	A. A certification like paper? No. You have
13	you go through a full day and they decide whether	13	to do all those in order to be even a part of the
14	they like some of the abilities that you might bring	14	team, but, no, I don't believe I was ever handed a
15	to the team. And then if you're selected from the	15	qualification card that said I passed or anything.
16	selection day to go to Hell Week, is what they called	16	<b>Q. But you passed some sort of qualifying</b>
17	it, then you're invited to Hell Week. And they put	17	<b>event?</b>
18	you through, I believe, a 120-hour course of a very	18	A. Correct.
19	high-stress, no sleep-type environment to see if you	19	<b>Q. Was it your use of the handgun or your</b>
20	have what it takes to meet the requirements for the	20	<b>knowledge about a handgun?</b>
21	team.	21	A. I believe it was a quarterly qualification.
22	<b>Q. Were you trained on different weapons as</b>	22	So every three months, you went to the range and you
23	<b>part of your SWAT training?</b>	23	had to shoot 100 percent with a pistol and
24	A. Yes.	24	100 percent with a rifle in order to pass the
25		25	qualifications.

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	18	19
1 <b>Q. And what about the rifles?</b>	1 <b>Q. When were you first issued an AR15?</b>	
2      A. What about the rifles?	2      A. I would just be guessing at the dates, but,	
3 <b>Q. Are you qualified on the use of rifles?</b>	3      again --	
4      A. Yes.	4      MR. MYLAR: Just objection to speculation.	
5 <b>Q. Which type of rifle?</b>	5      But go ahead.	
6      A. I personally was qualified with the AR15.	6      BY MS. CHECKETTS HIBBERT:	
7 <b>Q. And when did you become qualified with the</b>	7 <b>Q. Go ahead.</b>	
8 <b>AR15?</b>	8      A. Oh, I'm sorry.	
9      A. Well, it would have had to have been at	9      MR. MYLAR: I just don't want you to	
10     least in August of 2008 -- or summer, I'll say, of	10     speculate, but if you have some idea.	
11     2008, because that's when Hell Week was. And so I'm	11     BY MS. CHECKETTS HIBBERT:	
12     assuming somewhere around that time.	12 <b>Q. I'm entitled to your best estimate. I don't</b>	
13 <b>Q. Did you have to have quarterly</b>	13 <b>want you to speculate, but your best estimate as to</b>	
14 <b>qualifications for the AR15?</b>	14 <b>when you would have been issued that.</b>	
15     A. Yes.	15     A. It was somewhere in the summer of 2008.	
16 <b>Q. Do you own an AR15?</b>	16 <b>Q. Was there ever a point in time when you were</b>	
17     A. Me personally? Yes, I do.	17 <b>asked to return your AR15?</b>	
18 <b>Q. When did you first acquire your own personal</b>	18     A. I believe it was issued -- even though it	
19 <b>AR15?</b>	19     was -- you know, the SWAT team is a Metro unit. And	
20     A. It was years later, because I could never	20     when I left the Sheriff's Office on my own will	
21     afford one, to be honest with you. So I think I	21     because I wanted to go work for Ogden City, I was	
22     bought one in 2016.	22     allowed to keep my AR15 because I was still on the	
23 <b>Q. Prior to that time, had you been issued one</b>	23     same SWAT team.	
24 <b>by either -- any of your employers?</b>	24     So was your question when did I return that?	
25     A. Yes.	25 <b>Q. Yes.</b>	
	20	21
1      A. It would have been when I left Ogden, I'm	1      was barricaded or somewhat secure, you could use	
2      assuming. Again, it's a guess, but when I went to	2      shotgun ammunition, certain types at least to breach	
3      Salt Lake, would have been when I -- or, I'm sorry,	3      that door, hence, the term "breacher."	
4      probably when I left the SWAT team is when I would	4 <b>Q. Was there a certain time period during your</b>	
5      have given the AR15 back.	5 <b>service as a SWAT team member that you were a</b>	
6 <b>Q. So sometime in 2016 would be your best</b>	6 <b>breacher or was it -- I guess my question, I'm trying</b>	
7 <b>estimate?</b>	7 <b>to figure out was it like for X number of years or</b>	
8      A. Somewhere in there, yes.	8 <b>months you were a breacher and the rest of the time</b>	
9 <b>Q. And did you have to qualify quarterly with</b>	9 <b>you were a different type of SWAT team member, or did</b>	
10 <b>your AR15?</b>	10 <b>it depend on the particular operation you were</b>	
11     A. Yes.	11 <b>involved in as to what your role was?</b>	
12 <b>Q. Are there any other weapons that you have to</b>	12     A. I believe the majority of the time I was on	
13 <b>qualify to be allowed to use as either a SWAT member</b>	13     the SWAT team, if not the entire time I was on there,	
14 <b>or a police officer?</b>	14     that was my job was, I was one of the breachers.	
15     A. I mean it depends on what discipline you	15 <b>Q. Okay. And so you had to be qualified</b>	
16     were asked to do on the SWAT team, but I was never a	16 <b>quarterly on the shotgun, then?</b>	
17     sniper, so I never had to be trained on sniper	17     A. That, I do not recall specifics. I know we	
18     rifles. I was a breacher, so we did do shotgun work.	18     were trained in, you know, certain different things	
19     I can't really think of any other weapons, per se,	19     with the shotgun, but I don't recall if there were	
20     that I was asked to be qualified on.	20     quarterly qualifications with that.	
21 <b>Q. Now, you say you were asked to be a</b>	21 <b>Q. Was there a certain requirement while you</b>	
22 <b>breacher.</b>	22 <b>were employed by Ogden City and/or on the SWAT team</b>	
23 <b>What does that mean?</b>	23 <b>as to how often you had to go to the shooting range</b>	
24     A. A breacher is a guy that typically -- you	24 <b>to practice your target shooting?</b>	
25     know, if a SWAT team went to a structure and the door	25     A. Are you asking how often Ogden trained us?	

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	22	23
1	As far as I understand it, if you're on the	1 <b>SWAT team, how often would you say you shot your</b>
2	SWAT team, the Metro SWAT team, that was so much more	2 <b>handgun?</b>
3	qualifications than any department would train their	3 A. On average?
4	patrol officers. And I believe, if I'm not mistaken,	4 Q. Yes.
5	that most departments would say, "Oh, you're	5 A. I mean it could be a couple of times, it
6	qualifying with SWAT. Well, that's far more advanced	6 could be -- or else sometimes none. So if I had to
7	than what our patrol functions do. So they would	7 average -- I believe I was on the SWAT team for just
8	acknowledge those qualifications.	8 under eight -- about seven years. And you're asking
9	<b>Q. Okay. So you've told me and I appreciate</b>	9 me how many times a month?
10	<b>that you had to certify on a quarterly basis on the</b>	10 <b>Q. And, yeah. And I'm not talking just about</b>
11	<b>handgun, the rifle and the shotgun; correct? Maybe</b>	11 <b>in an active operation but also like on the shooting</b>
12	<b>not the shotgun.</b>	12 <b>range.</b>
13	A. Yeah, I can't confirm the shotgun.	13 A. Sure. How often we were on --
14	<b>Q. But my question is, in addition to just</b>	14 <b>Q. How often you would estimate in a month you</b>
15	<b>certifying quarterly, was there any requirement that</b>	15 <b>would shoot your handgun.</b>
16	<b>you actually had to go practice or be on the shooting</b>	16 A. At least a couple of times, probably.
17	<b>range more often than quarterly?</b>	17 <b>Q. How about the rifle, the AR15?</b>
18	A. I think there were numerous -- I mean it's	18 A. Probably the same.
19	not like the SWAT team only shot four times a year at	19 <b>Q. And what about the shotgun?</b>
20	the range. We shot a lot more and were trained far	20 A. It wasn't as often as the pistols or the
21	more than just four times a year. Sometimes it was a	21 rifles.
22	few times a month. The qualifications, if I remember	22 <b>Q. Was there a reason for that?</b>
23	right, were quarterly for at least the rifle and the	23 A. I don't know.
24	handguns.	24 <b>Q. Was that your choice or a department policy</b>
25	<b>Q. So in any given month while you were on the</b>	25 <b>as to the number of times you would shoot?</b>
	24	25
1	A. A shotgun?	1 <b>Q. How familiar would you say you are with the</b>
2	<b>Q. Uh-huh. (In the affirmative.)</b>	2 <b>parts of an AR15?</b>
3	A. It just all depended on what the training	3 A. Like the nomenclature?
4	was for that day. So sometimes we wouldn't go on the	4 <b>Q. Just identifying the parts of an AR15.</b>
5	range at all and then sometimes we would go	5 A. Not very well.
6	back-to-back trainings, which were usually every	6 <b>Q. You couldn't visually identify if it was an</b>
7	other week. So why the shotgun was used less, I	7 <b>AR15 or could you?</b>
8	couldn't answer that. I don't know.	8 A. Something similar, sure. I know there's a
9	<b>Q. In your service as a SWAT team member, would</b>	9 lot of officers that they love -- they're gun gurus
10	<b>you most often carry a shotgun or a rifle or both?</b>	10 and they do their own loads and -- I mean on their
11	A. On a deployment, I would carry a rifle more	11 off time. I've never been a guy to really care to go
12	than I would carry a shotgun.	12 and -- I don't own numerous guns in my safe and I
13	<b>Q. Even if you were the breacher?</b>	13 don't -- so, no. I mean I could probably point out
14	A. Right. And it all depended on what the	14 if something was an AR15, but I'm not the expert by
15	mission was and what -- how many doors needed to be	15 any means.
16	breached. So every mission was different, so...	16 <b>Q. If there's an AR15, could you identify the</b>
17	<b>Q. How often would you clean your weapons?</b>	17 <b>magazine on it?</b>
18	<b>After every shooting exercise?</b>	18 A. Sure.
19	A. I know that was recommended. I mean, yeah,	19 <b>Q. Could you identify the front grip on it?</b>
20	I'm sure I didn't clean it after every single time I	20 A. Sure.
21	ever went to the range. I'm sure there were some	21 <b>Q. What type of training were you given with</b>
22	days that I was busy with the kids and running around	22 <b>respect to searches of homes in your service as a law</b>
23	and all that as far as -- and the numerous other	23 <b>enforcement officer?</b>
24	things we're asked to do, but, yeah, it was highly	24 A. Searches as in search and seizure law or the
25	encouraged to keep your weapons clean.	25 actual search of a home for --

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	26	27
1	<b>Q. Fair question.</b>	1 your understanding of when it was lawful for law
2	In October of 2014, if you can kind of try	2 enforcement to enter a person's home.
3	to place yourself in that timeframe, what was your	3 A. I mean are you asking for the factors -- I
4	understanding of search and seizure laws as they	4 mean I guess I'm not understanding your question,
5	pertain to law enforcement officers entering an	5 because --
6	individual's home?	6 <b>Q. Is it lawful to enter if you have a search</b>
7	MR. MYLAR: Objection to the extent that	7 <b>warrant?</b>
8	asks a legal question.	8 A. Yes.
9	But go ahead, you can answer.	9 <b>Q. Okay. What's another instance where it's</b>
10	THE WITNESS: I'd been a police officer	10 <b>lawful to enter?</b>
11	for -- that's 2014, right -- so seven years. So to	11 A. Consent.
12	answer your question, how familiar was I with search	12 <b>Q. And who can give consent? What was your</b>
13	and seizure laws?	13 <b>understanding?</b>
14	BY MS. CHECKETTS HIBBERT:	14 A. We could talk about this at length for hours
15	<b>Q. And what was your understanding of when law</b>	15 at a time.
16	<b>enforcement could enter?</b>	16 Who? Well, I would say the homeowner, the
17	A. Well, that could be on -- there are so many	17 person who has standing to the home can give consent.
18	factors to that that there's no way -- there's no	18 There's a lot of people that can give consent to a
19	standard answer for that.	19 home.
20	<b>Q. Had you been given any training as to when</b>	20 <b>Q. A lot of people?</b>
21	<b>it was appropriate to enter homes or not?</b>	21 A. Sure.
22	A. As a patrol officer, absolutely. Things are	22 <b>Q. Tell me what your understanding was as to</b>
23	different when they have -- they call out SWAT for a	23 <b>who could give consent.</b>
24	very heated subject.	24 A. Well, if an officer came to my house, my
25	<b>Q. Okay. So tell me the difference. What was</b>	25 kids could allow somebody into the home, my wife. If
	28	29
1	my parents are there, they could invite somebody in.	1 is valid if a person inside the home is not allowing
2	And me, the homeowner, obviously I could, too. So	2 the entry?
3	there are a lot of people that could invite somebody	3 MR. MYLAR: Objection.
4	into a home.	4 BY MS. CHECKETTS HIBBERT:
5	As a patrol officer, when I go to a call, I	5 <b>Q. What was your understanding at that time, in</b>
6	don't have to make sure I'm talking to the landlord	6 <b>October of 2014?</b>
7	who owns the home in order to get permission to go	7 MR. MYLAR: Objection, it assumes facts
8	into the home. So there's numerous people that can	8 contrary to evidence.
9	allow you to enter.	9 Go ahead.
10	<b>Q. Okay. And I'm just asking you to enumerate</b>	10 THE WITNESS: Could you rephrase that,
11	<b>the individuals that you believe can give consent to</b>	11 please.
12	<b>enter a home.</b>	12 BY MS. CHECKETTS HIBBERT:
13	A. And I gave those.	13 <b>Q. In the general sense, what was your</b>
14	<b>Q. So people that are in the home?</b>	14 <b>understanding, if an individual away from the home,</b>
15	A. Sure, or a homeowner if he's in the Bahamas,	15 <b>did not own the home, gave consent, but the</b>
16	or I mean there's a lot of people that can give you	16 <b>individual in the home who owned the home did not</b>
17	consent to go into a home.	17 <b>give consent, would that be valid consent to --</b>
18	<b>Q. Can a person who's not in the home but is</b>	18 A. Well, that depends on what standing that --
19	<b>not a homeowner give consent to enter the home?</b>	19 MR. MYLAR: Let me object first.
20	A. It depends on what standing they have to	20 I'm going to object because it's an
21	that house. Are they the spouse, are they the	21 incomplete hypothetical and it is assuming facts
22	live-in girlfriend that that's their residence?	22 contrary to the evidence of this case.
23	Then, yes, they can give you consent to go in.	23 But go ahead.
24	<b>Q. Can a person who is away from the home and</b>	24 THE WITNESS: See, and then I forgot the
25	<b>not a homeowner give consent to enter the home which</b>	25 question, but anyway --

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1	BY MS. CHECKETTS HIBBERT:	30	1	of when that would be valid for police officers to 2 enter.
2	<b>Q. We can have Teena --</b>		3	A. Welfare checks. We go on those numerous 4 times as patrol officers. Somebody says, you know, 5 I'm concerned for my daughter or whatever, you know, 6 because I haven't heard from them and it's not like 7 them. We go to that residence and we're not getting 8 a response. I mean there's so much that can go into 9 do we go in for -- you know, to make sure that 10 they're okay. And, you know, there's obviously so 11 many factors that play into that.
3	A. No, you're fine.		12	Are they on medication? What type of 13 history do they have with health problems? So I 14 don't know if there's -- I mean I'm sure there's 15 numerous other instances if you want me to expound. 16 If not --
4	<b>Q. Do you understand my question?</b>		17	<b>Q. Can you think of other instances when it 18 would be lawful for law enforcement to enter?</b>
5	A. I believe I do, but, again, that depends on 6 what standing to the home does that person who's not 7 at the home have to give consent or not?		19	A. I'm sure I could think of a few others, if 20 you gave me time, but I mean that's kind of on the 21 spot.
8	So that's a great question. I don't know -- 9 I mean can somebody -- is your question, can somebody 10 away from the home who doesn't own the home, can they 11 give consent? Absolutely, if they're a live-in 12 girlfriend, if they're a son or daughter. I mean 13 absolutely you can get consent to search.		22	<b>Q. Okay. Let's talk about October 21st, 2014.</b>
14	<b>Q. That was one piece of my question.</b>		23	<b>You were called to Mr. Calzada's home; 24 correct?</b>
15	<b>The second piece is, is that consent valid 16 if the person who owns the home is in the home and 17 has not given consent to enter?</b>		25	A. Correct.
18	A. And, again, there's numerous factors. 19 That's a great question. I mean and every situation 20 is different.		32	33
21	Is that person in dire need of help? Is 22 that person -- I mean there's just not a definitive 23 yes or no. There's so many factors that fall into 24 that line.		1	A. Usually when you show up, you would report 2 to whoever was in charge of -- you know, as far as 3 the SWAT structure goes, and let them know you were 4 there. And then they would probably tell you, all 5 right, go get into your gear, your SWAT gear. And 6 then I don't recall exactly who I reported to, no, I 7 don't.
25	<b>Q. Give me specifics as to your understanding</b>		8	(Exhibit No. 33 was marked.)
			9	BY MS. CHECKETTS HIBBERT:
			10	<b>Q. Do you recognize this document?</b>
			11	A. Yes, I do.
			12	<b>Q. What is it?</b>
			13	A. It would have been my report that I wrote in 14 regards to the incident on -- is it 10/23/2014?
			15	<b>Q. Could that be 10/21/2014?</b>
			16	A. You know what, it might be. It seems like a 17 very blurry copy, but, sure, it might be 10/21.
			18	<b>Q. When's the last time you read this report?</b>
			19	A. It's probably been a few days ago.
			20	<b>Q. Why don't you take time to reread it. It's 21 just one page.</b>
			22	A. Okay. (Witness reads document.)
			23	Okay. I'm finished.
			24	<b>Q. Upon rereading and reviewing your report,</b>
			25	

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	34		35
1	Exhibit 33, are there any corrections that you feel	1	and -- I believe that would cover it.
2	need to be made to this report?	2	<b>Q. Okay. Please read them.</b>
3	A. I don't believe so.	3	A. "We were told the subject, Jose Calzada, was
4	<b>Q. So is this report an accurate</b>	4	heavily intoxicated and had made comments about
5	<b>memorialization or writing of what occurred, from</b>	5	having police shoot him. We were instructed to
6	<b>your perspective, on October 21st, 2014?</b>	6	perform a slow and deliberate search of the house for
7	A. Yes.	7	Jose."
8	<b>Q. So looking at the first paragraph, the</b>	8	<b>Q. Do you have a separate and specific</b>
9	<b>second sentence, will you read that.</b>	9	<b>recollection of that being told to you during the</b>
10	A. Where again?	10	<b>briefing?</b>
11	<b>Q. First paragraph, second sentence.</b>	11	A. If you're asking if I remember exact details
12	A. "After I arrived on scene, members of the	12	four years ago, no, I don't. I remember that this
13	SWAT team were briefed by Lieutenant Pledger."	13	would -- again, if I wrote it down, with it being so
14	<b>Q. Does that refresh your recollection as to</b>	14	long ago, I have no doubt that happened, if that's
15	<b>who you spoke to about this incident when you</b>	15	what I wrote.
16	<b>arrived?</b>	16	<b>Q. Do you recall being informed that</b>
17	A. I don't recall me walking up to him, but if	17	<b>Mr. Calzada had not violated any crimes -- or not</b>
18	I wrote it, then I'm sure it happened, yes, because	18	<b>violated any -- had not committed any crimes?</b>
19	that's just what we did when we showed up, we went to	19	A. I would not recall that ever being brought
20	whoever was in charge. And it sounds like on this	20	up.
21	day, yes, that's what happened.	21	<b>Q. Do you recall being told that Mr. Calzada</b>
22	<b>Q. Do you recall the specifics of the briefing</b>	22	<b>had not threatened anyone?</b>
23	<b>that you received? What do you recall about the</b>	23	A. Well, clearly, I wrote he was threatening to
24	<b>briefing you received?</b>	24	shoot police. So I don't recall him threatening
25	A. Can I read the next couple of sentences	25	nobody.
	36		37
1	<b>Q. I didn't see here threatening to shoot</b>	1	<b>about shooting police?</b>
2	<b>police.</b>	2	A. I don't recall that. I just recall what's
3	A. Third sentence, "We were told the subject,	3	in the report, so...
4	Jose Calzada, was heavily intoxicated and had made	4	<b>Q. Do you recall being told that Mr. Calzada</b>
5	comments about having police shoot him."	5	<b>had called the suicide crisis line?</b>
6	So in exchange of fire with the police is, I	6	A. I wouldn't recall the specifics of
7	guess, what was brought up.	7	remembering that, no.
8	<b>Q. So it's your testimony that your statement</b>	8	<b>Q. Do you recall being told how long law</b>
9	<b>here about having made comments about having police</b>	9	<b>enforcement had been negotiating and speaking with</b>
10	<b>shoot him was the same as saying he was going to</b>	10	<b>Mr. Calzada?</b>
11	<b>shoot police?</b>	11	A. No.
12	A. Could you rephrase your question.	12	<b>Q. Do you recall being told that Lieutenant</b>
13	<b>Q. I'm just trying to understand your testimony</b>	13	<b>Pledger thought that Mr. Calzada had probably fallen</b>
14	<b>where you said that -- you wrote that Jose Calzada</b>	14	<b>asleep?</b>
15	<b>said that he was going to shoot police and I asked</b>	15	A. I don't recall that.
16	<b>you to point that out.</b>	16	<b>Q. Do you recall being told that Mr. Calzada</b>
17	A. Okay.	17	<b>had stated that he had been up all night?</b>
18	<b>Q. And so, again, what language do you say in</b>	18	A. No.
19	<b>your report states that Jose Calzada said he was</b>	19	<b>Q. Do you recall being told that Mr. Calzada</b>
20	<b>going to shoot police?</b>	20	<b>had consumed large quantities of alcohol?</b>
21	A. I guess I wrote he had made comments about	21	A. No.
22	having police shoot him, so I guess I read it wrong	22	<b>Q. Do you recall being told that Mr. Calzada</b>
23	when you asked.	23	<b>had taken prescription medication that likely would</b>
24	<b>Q. So do you have an independent recollection</b>	24	<b>have made him drowsy?</b>
25	<b>of being told that Mr. Calzada had made any threats</b>	25	A. No.

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	38		39
1	Q. Do you recall being told that Lieutenant	1	Mr. Calzada had told law enforcement officers that he
2	Pledger thought that it was likely that Mr. Calzada	2	was tired and he wanted to go to sleep?
3	had passed out from the drugs and alcohol?	3	A. I don't remember hearing that or if it was,
4	A. No.	4	I just don't recall it.
5	Q. Do you recall Lieutenant Pledger informing	5	Q. Were you told that it was at approximately
6	SWAT team members that Mr. Calzada had not committed	6	4:00 a.m. when Mr. Calzada first called the suicide
7	any crimes?	7	crisis line?
8	A. No.	8	A. I don't recall.
9	Q. Do you recall Lieutenant Pledger or anyone	9	Q. Were you informed that it was at
10	informing the SWAT team that Mr. Calzada had not	10	approximately 8:59 a.m. that law enforcement lost
11	threatened anyone?	11	phone contact with Mr. Calzada?
12	A. No.	12	A. No.
13	Q. Do you recall Lieutenant Pledger telling --	13	Q. And you were not informed that prior to
14	or anyone telling the SWAT team that Mr. Calzada had	14	losing phone contact Mr. Calzada had told law
15	allowed the other occupants in the home to leave of	15	enforcement that he was tired and wanted to go to
16	their own accord during this incident?	16	sleep?
17	A. No.	17	A. I'm not saying I wasn't informed of
18	Q. What were your instructions from Lieutenant	18	anything. I'm saying when you're doing this four
19	Pledger when you were told to enter the home? What	19	years later, I don't recall specific details like
20	was your objective?	20	that.
21	A. Our objective would be to search for	21	Q. After being given the instruction that the
22	Mr. Calzada.	22	SWAT team should locate Mr. Calzada, what further
23	Q. Why?	23	instructions did you receive from Lieutenant Pledger
24	A. For his welfare.	24	as to what SWAT team members were to do if they
25	Q. Were you informed by Lieutenant Pledger that	25	located Mr. Calzada?
	40		41
1	A. I believe it would have been to safely take	1	A. No, I don't.
2	him into custody so that we could get him the help he	2	Q. Were you given any instruction that you
3	needed.	3	should back off or back out once you found him?
4	Q. Were you told that it was a goal of the plan	4	A. No.
5	to try to re-establish communication with	5	Q. What was your understanding that you
6	Mr. Calzada?	6	should -- you stated that it would be your goal to
7	A. I don't recall.	7	apprehend him and take him into custody; correct?
8	Q. If that had been the instruction, what would	8	A. Correct.
9	have that meant to you?	9	Q. How did you anticipate being able to do
10	A. That's complete speculation. I have no	10	that?
11	idea.	11	A. Well, most of these types of SWAT call-outs
12	Q. So when your superior gives the instruction	12	end very peacefully. When we had gone in and were
13	to try to re-establish communication, you would have	13	able to safely apprehend the subject and give them --
14	no idea what that meant?	14	you know, ultimately, it's everybody's goal at the
15	A. No. You gave a hypothetical question. And	15	end of the day to go home safe. And that was the
16	how do I answer a hypothetical question?	16	goal, no doubt, that day and getting the help he
17	Q. At this time, in 2014, you'd had at least	17	needed. If he was suicidal, let's get you up to a
18	seven years on the job.	18	counselor to talk to a counselor. If you need --
19	Given that background, bringing that to	19	whatever avenue, let's get you the help you need.
20	bear, what would that mean to you to have been given	20	Q. Will you read the final sentence of your
21	the instruction that your objective was to	21	first paragraph aloud, please.
22	re-establish communication with Mr. Calzada?	22	A. "We were instructed to perform a slow and
23	A. To talk to him.	23	deliberate search of the house for Jose."
24	Q. But you don't recall being given that	24	Q. What did that instruction mean to you?
25	instruction?	25	A. That means, to me, that when you go in the

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	42	43
1	house, you're not going in there running through it	1
2	as fast as you can. You're usually -- slow and	2
3	deliberate means you -- once you gain entry, in this	3
4	case in the garage, you sit for a number of minutes	4
5	to try and listen to anything out of the -- you know,	5
6	when there's an air conditioner going on, when is	6
7	this going on, and basically become -- to understand	7
8	the environment you're in. And when it's deemed that	8
9	we've had enough time to, you know, become acquainted	9
10	with the environment, then in a very slow manner, you	10
11	look for where anybody could be hiding.	11
12	<b>Q. Will you read the next sentence of your</b>	12
13	<b>report, the first sentence of the next paragraph.</b>	13
14	A. "The SWAT team approached the house with the	14
15	cover of an armored Suburban."	15
16	<b>Q. And I believe it says, "Of the armored</b>	16
17	<b>Suburban"; correct?</b>	17
18	A. Yes.	18
19	<b>Q. I'm going to show you what's previously</b>	19
20	<b>marked as Exhibit 14.</b>	20
21	(Previously marked Exhibit No. 14 was	21
22	referred to.)	22
23	BY MS. CHECKETTS HIBBERT:	23
24	<b>Q. Is that the armored Suburban?</b>	24
25	A. Yes.	25
	44	45
1	other calls, so I would assume that that's what we	1
2	did in this case, is approached the house as it was	2
3	slowly driving up to it by standing behind it.	3
4	<b>Q. You were a part of the team that entered the</b>	4
5	<b>home; correct?</b>	5
6	A. Correct.	6
7	<b>Q. Okay. The next sentence in your report,</b>	7
8	<b>will you read that, to the first comma.</b>	8
9	A. "After the Suburban was parked in the	9
10	driveway of the residence."	10
11	<b>Q. Okay. Do you remember which direction the</b>	11
12	<b>Suburban was facing when it was parked in the</b>	12
13	<b>driveway?</b>	13
14	A. No, I don't.	14
15	<b>Q. You don't remember if it was head in or back</b>	15
16	<b>in or --</b>	16
17	A. I do not recall.	17
18	<b>Q. Okay. And then the next -- after the comma,</b>	18
19	<b>keep reading.</b>	19
20	A. "The team gained entry into the house by	20
21	breaching a man door on the west side of the garage."	21
22	<b>Q. Were you the one who breached the man door?</b>	22
23	A. I don't even recall that.	23
24	<b>Q. Do you know if you were carrying a shotgun</b>	24
25	<b>and/or a rifle in this operation?</b>	25

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	46		47
1	<b>entering the garage?</b>	1	Whether that shotgun would have been loaded
2	A. I don't recall, no.	2	with -- typically, whether it's loaded at the time
3	<b>Q. Do you recall anything being said by the</b>	3	with less lethal or lethal, you always have the
4	<b>SWAT team members while you were in the garage?</b>	4	capability of less lethal. So if it was loaded with
5	A. I do not.	5	regular ammunition, such as breaching ammunition,
6	<b>Q. Did you have a body camera on you?</b>	6	since primarily that's what shotguns are for in a
7	A. I do not think I did. I don't recall.	7	SWAT environment, I believe you would always have --
8	<b>Q. Why do you think you did not?</b>	8	again, this is years ago, but you would always have
9	A. Because there was a transition of this --	9	less lethal options so that if some situation turned
10	the world of law enforcement. I mean this was	10	different, then you had that capability.
11	probably in the beginning stages of body cameras.	11	<b>Q. Did you carry with you a taser?</b>
12	And I don't think I ever carried a camera -- I know I	12	A. I do not believe I carried one on a SWAT
13	never carried a camera on patrol with the Sheriff's	13	belt.
14	Office or Ogden. And I don't remember wearing one in	14	<b>Q. Were you required to be certified with a</b>
15	this instance for the SWAT team.	15	<b>taser as part of the SWAT team?</b>
16	<b>Q. Did you carry with you any less lethal -- I</b>	16	A. Yeah, I believe so. I recall trainings
17	<b>don't know if weapon is the right word, or</b>	17	where they went over tasers and how they operated.
18	<b>instrument, device?</b>	18	<b>Q. Do you recall there being any sort of policy</b>
19	A. I don't remember if I was or not.	19	<b>if the members of the SWAT team should carry tasers</b>
20	<b>Q. If you'd been carrying a shotgun, would that</b>	20	<b>when they enter different operations?</b>
21	<b>typically be loaded with less lethal ammunition? Is</b>	21	A. I can't recall those, no.
22	<b>that the correct term --</b>	22	<b>Q. Do you recall any sort of a policy that</b>
23	A. Sure.	23	<b>required that there be other less lethal options</b>
24	<b>Q. -- less lethal?</b>	24	<b>carried on the person of a SWAT team member entering</b>
25	A. Sure.	25	<b>different operations or situations?</b>
	48		49
1	A. No, I don't recall.	1	be in.
2	<b>Q. Do you know if there was a search warrant</b>	2	<b>Q. So you never turned it over in your mind as</b>
3	<b>obtained to enter Mr. Calzada's home?</b>	3	<b>to whether or not it would be appropriate to enter</b>
4	A. I couldn't tell you.	4	<b>Mr. Calzada's home?</b>
5	<b>Q. Did you ask?</b>	5	A. Well, first of all, I wasn't there from the
6	A. No, I wouldn't have asked. I would have	6	start when it was with Roy. So, no, I'm not in the
7	trusted the leadership that, if that was needed, then	7	position of showing up on a call and questioning the
8	that would have been done.	8	patrol officer and his sergeant and his lieutenant
9	<b>Q. Did you think that this was a situation that</b>	9	and then questioning the SWAT lieutenant and the SWAT
10	<b>warranted a search warrant?</b>	10	commander. I mean, no. If we're there, we're there
11	A. Looking back now or at the time --	11	for a good reason. So, no, I don't sit there and
12	<b>Q. No, at the time.</b>	12	mull these questions over. I respond and I do what
13	A. Can I say that my job to show up if the SWAT	13	I'm asked to do.
14	team's been called out is not to play "what if," you	14	<b>Q. So what basis did you think you had for</b>
15	know, and to second-guess the entire SWAT element. I	15	<b>entering Mr. Calzada's home?</b>
16	would assume that if we got called out, we are there	16	A. We were there to help him on a welfare
17	for a good reason. And Lieutenant Jeff Pledger, I	17	check, to get him the help he needed.
18	thought extremely highly of him, I still do. And if	18	<b>Q. Do you recall how many officers entered</b>
19	he called out the SWAT team, he is a guy that is very	19	<b>Mr. Calzada's home?</b>
20	by the book.	20	A. I don't have a specific number, but I would
21	<b>Q. So was your habit to just do whatever you</b>	21	assume probably at least seven or eight of us.
22	<b>were told?</b>	22	<b>Q. Do you recall if you had audio communication</b>
23	A. I had great faith in the leadership. And he	23	<b>among the members of the SWAT team?</b>
24	would never put us in a position that we weren't --	24	A. Yes, we had radio communications with each
25	he would never put us in a position that we shouldn't	25	other.

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	50		51
1	<b>Q. Do you recall where Lieutenant Pledger was</b>	1	of the SWAT team who typically aren't even in the
2	<b>at this time that you entered the home?</b>	2	house. And in this case, over in the mobile command.
3	A. He was probably out on the main street there	3	<b>Q. Do you know how the commander can direct a</b>
4	at the end of the cul-de-sac in some type of mobile	4	<b>operation that they can't see?</b>
5	command center.	5	A. Well, they have leaders and they trust those
6	<b>Q. Do you know if there was any sort of</b>	6	leaders inside the house. And typically that's how
7	<b>visual -- ability to visually see the home from where</b>	7	it's conducted.
8	<b>he was located?</b>	8	<b>Q. And so after you got into the garage, were</b>
9	MR. MYLAR: Objection, calls for	9	<b>all the SWAT members who entered the home -- how long</b>
10	speculation, calls for a mental impression.	10	<b>did they remain in the garage?</b>
11	But you can answer.	11	A. I would say ten minutes is probably a fair
12	BY MS. CHECKETTS HIBBERT:	12	estimate of how long we stayed in there and listened
13	<b>Q. You had been at the command center getting</b>	13	to see if we could hear him in an upstairs bedroom or
14	<b>briefed; correct?</b>	14	whatnot. So, yeah, I'd give it about ten minutes.
15	A. Yeah.	15	<b>Q. And then who made the decision to enter into</b>
16	<b>Q. Could you see the home from there?</b>	16	<b>the home -- I mean depart the garage and enter into</b>
17	A. I don't even recall.	17	<b>the home?</b>
18	<b>Q. Do you recall getting any instructions from</b>	18	A. I don't recall who gave the actual
19	<b>Lieutenant Pledger or from anyone over the radio</b>	19	instruction.
20	<b>while you were conducting the search?</b>	20	<b>Q. Now, I understand that Lieutenant Pledger</b>
21	A. It's common practice to stay in	21	<b>was back at the command center on another street.</b>
22	communications with each other, updating, you know,	22	<b>Who was the leader, or was there a leader</b>
23	the mobile command what we're seeing, if -- so, yeah,	23	<b>designated among those of you who entered the home?</b>
24	again, the specifics I wouldn't have a clue, but it's	24	A. There's always a leader.
25	common to stay in communications with the leadership	25	<b>Q. And who was that during this operation?</b>
	52		53
1	A. I don't recall. Sometimes you have --	1	<b>Do you see that?</b>
2	<b>Q. Could it have been Armando Perez?</b>	2	A. Yes.
3	A. Yeah, it could have been.	3	<b>Q. Reviewing these names and their titles, or</b>
4	<b>Q. Do you think it was?</b>	4	<b>assignments, I suppose, does this refresh your</b>
5	A. Well, there's more than one leader in any	5	<b>recollection as to who was the leader while you were</b>
6	environment. There are squad leaders, there's	6	<b>inside the home?</b>
7	assistant squad leaders, there's leaders of a sniper	7	A. No, because there's more than one leader.
8	team. So it very well could have been Armando Perez.	8	<b>Q. Okay. Help me understand.</b>
9	<b>Q. Okay. I'm going to ask you to look at</b>	9	A. Well, when you get in the home, there's some
10	<b>Exhibit 2.</b>	10	people that go upstairs, there's some people that
11	(Previously marked Exhibit No. 2 was	11	stay on the main floor. And if there's a basement --
12	referred to.)	12	I mean you don't -- you split up once you're inside
13	BY MS. CHECKETTS HIBBERT:	13	the home. So any one of these guys could have
14	<b>Q. It's been previously marked. It was marked</b>	14	stepped up, not just Armando.
15	<b>during Lieutenant Pledger's deposition. I'll</b>	15	For example, I was the assistant squad
16	<b>represent to you that this report was given to us by</b>	16	leader with the Bravo squad, but if somebody has a
17	<b>your attorney and that Lieutenant Pledger testified</b>	17	better vantage point or has more intel than -- I
18	<b>that this was the report that he had written.</b>	18	mean, in theory, we're all leaders on a SWAT team.
19	So if we go to -- turn to page 38 of 43 on	19	<b>Q. Okay. I do see here, yes, "Denton Harper</b>
20	<b>the bottom of this exhibit.</b>	20	<b>Bravo Quad assistant squad leader."</b>
21	A. Thirty-eight of forty-three?	21	<b>Who was the Bravo squad leader or was there</b>
22	<b>Q. Yeah, exactly. And you'll see about halfway</b>	22	<b>one?</b>
23	down, he says, "The following SWAT personnel	23	A. Well, somebody was and they weren't on
24	responded to my request," and then there's a listing	24	scene, I guess. So either they didn't respond to the
25	of names.	25	call -- I'm not even sure who it was at that time on

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1	the team, but --	1	team. And then once you get into a different
2	<b>Q. So did that then fall to you to be the</b>	2	situation, an open door here or a set of staircases
3	<b>leader?</b>	3	there, I mean even the lowest guy on this totem pole
4	A. Of the Bravo squad, sure. I mean if the	4	here, so to speak, could say, "Hey, somebody come
5	squad leader, per se, wasn't there, then, yeah,	5	with me, we're going to go up there and do this."
6	you're the next one down, but, again, faith is put	6	And, you know, these are competent people
7	into all these guys. So it's not like we get into	7	that we have faith in.
8	the garage and one guy raises his hand, he's like,	8	<b>Q. So did any member of the SWAT team give a</b>
9	all right, I'm the leader. We just perform the	9	<b>direction that it was time to enter the home?</b>
10	mission and perform what tasks need to be done.	10	A. I don't recall if it was somebody inside the
11	<b>Q. Okay. Where it says -- on page 38 of 43, do</b>	11	garage, I don't recall if it was somebody from the
12	<b>you see where it says, "Armando Perez"?</b>	12	mobile command, but if we have -- so, no, I don't
13	A. Yes.	13	recall somebody stepping up to the plate, so to
14	<b>Q. It says, "Armando Perez 'Alpha' squad's</b>	14	speak, and saying, all right, we're going in. It was
15	<b>leader (Entry team)."</b>	15	just -- typically, you clear that with leadership in
16	<b>Do you see that?</b>	16	the mobile command and they say, "Okay."
17	A. Yeah.	17	<b>Q. Okay. So do you recall entering the home?</b>
18	<b>Q. What does that signify to you?</b>	18	A. I do, yes.
19	A. That he's the squad leader of Alpha team.	19	<b>Q. What did you do after you entered the home?</b>
20	<b>Q. So were there two entry teams or was the</b>	20	A. You know, once we're in the home from the
21	<b>combination of Alpha and Bravo that entered that home</b>	21	garage, I mean we're just looking in any bedroom,
22	<b>considered the entry team?</b>	22	under beds, anywhere a human body could be hiding. I
23	A. Yes. That would be the case, that the	23	don't recall if I went upstairs to the top floor, I
24	combination of these people, whether you're on Alpha	24	don't recall if I stayed on the main level or even if
25	or Bravo, you made entry and you're all on the entry	25	there was even a basement in this home. I couldn't
	56		57
1	tell you the specifics, but I do recall we went in	1	A. I do not, no.
2	and our initial search we didn't find him.	2	<b>Q. Do you recall who you were with?</b>
3	<b>Q. Okay. And so do you recall about how long</b>	3	A. I don't, because it can change once you get
4	<b>that initial search took?</b>	4	to the kitchen, once you get to the basement. I mean
5	A. It was a lot slower than I -- I'm not a very	5	it can always -- it's just an evolving thing. So,
6	patient person, so we always have to just take it	6	no, I couldn't tell you exactly who I was with.
7	very, very slow. And I wouldn't even know how long	7	<b>Q. Do you recall anything that you saw of</b>
8	that took.	8	<b>interest or significance in the home?</b>
9	<b>Q. And then what did you do after you -- okay,</b>	9	A. No.
10	<b>the team didn't find him with the initial search.</b>	10	<b>Q. If you'll go to your report, Exhibit 33 --</b>
11	<b>So then what do you recall being instructed</b>	11	A. Okay.
12	<b>to do?</b>	12	<b>Q. -- the third paragraph, third sentence</b>
13	A. I remember thinking to myself, well, that's	13	<b>beginning with, "Ogden Fire Paramedic B. Stirling."</b>
14	odd. I mean typically you get called in, you find	14	<b>Can you read that.</b>
15	the person. So then we were called to do a secondary	15	A. Sure.
16	search of the residence.	16	"Ogden Fire Paramedic B. Stirling advised me
17	<b>Q. And how did the secondary search differ or</b>	17	over the radio he had located an unlocked door to a
18	<b>did it from the initial search?</b>	18	travel trailer on the west side of the garage."
19	A. I think you go slower and you look even into	19	<b>Q. Thank you.</b>
20	more nooks and crannies. I mean it's not uncommon	20	<b>Now, if you'll turn to Exhibit 3 here.</b>
21	for people to go up in attics and things of that	21	(Previously marked Exhibit No. 3 was
22	nature. So we would have been even more thorough	22	referred to.)
23	than we were the first time.	23	<b>THE WITNESS:</b> Is that the tab?
24	<b>Q. Do you recall specifically what you searched</b>	24	<b>BY MS. CHECKETTS HIBBERT:</b>
25	<b>during the secondary search?</b>	25	<b>Q. Yeah. And it's been marked as Exhibit 3 and</b>

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1	it was marked during Lieutenant Pledger's deposition.	1
2	Do you recognize this document?	2
3	A. I don't.	3
4	Q. As you look at it, what does it appear to	4
5	you to be?	5
6	A. I don't know.	6
7	Q. I'll represent to you that I received this	7
8	from your attorney.	8
9	And at the top, it says, "Weber County	9
10	Sheriff's Office CAD Call Hardcopy."	10
11	Does this give you some information as to	11
12	what this might be?	12
13	A. I don't even know what that means.	13
14	Q. Well, other witnesses in this case have	14
15	testified that it appears to be the dispatch's --	15
16	notation of the dispatch communications between	16
17	dispatch and law enforcement officers during this	17
18	incident.	18
19	A. Okay.	19
20	Q. And you see that the date at the beginning	20
21	on that first page is October 21, 2014, at 4:13:30?	21
22	A. Okay.	22
23	Q. All right. If you will turn to page 31 of	23
24	49 of Exhibit 3.	24
25	Okay. Now, look back at your report,	25
	60	61
1	question was, I'm sorry.	1
2	BY MS. CHECKETTS HIBBERT:	2
3	Q. Okay. I'm just trying to put into context	3
4	of approximately when it was that the trailer door	4
5	was found to be unlocked.	5
6	Does it seem like it was probably around	6
7	11:02 or in that neighborhood?	7
8	MR. MYLAR: Objection, calls for	8
9	speculation.	9
10	THE WITNESS: Sure, that would make sense to	10
11	me.	11
12	BY MS. CHECKETTS HIBBERT:	12
13	Q. You don't have any reason to dispute it?	13
14	A. Exactly.	14
15	Q. Okay. And you do recall over the radio	15
16	hearing words to the effect that the trailer door was	16
17	unlocked; correct?	17
18	A. Correct. Yes.	18
19	Q. Okay. Great.	19
20	Then will you read the next sentence on	20
21	Exhibit 33, on your report, "I grabbed," the last	21
22	sentence of paragraph 3.	22
23	A. "I grabbed B. Butler and T. Fulton and told	23
24	them to respond to the trailer with me so we could	24
25	search it."	25

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1	yell, "Show me your hands"?	1	side of the garage?
2	A. I believe I was about ready to make entry	2	A. Yes.
3	into the travel trailer or probably just outside of	3	Q. So when you heard Officer Miles shout, "Show
4	the garage out into the open air when those commands	4	me your hands," you could not see in the garage;
5	were given.	5	correct?
6	Q. So when you heard Officer Miles shout, "Show	6	A. I don't recall exactly where I was standing,
7	me your hands," what did you do then?	7	but I do remember shortly thereafter, if not at that
8	A. Well, again, I remember being surprised	8	time, I could see what -- looked over to see what he
9	that, well, they found somebody. And I saw the trunk	9	was doing and there was a trunk of a car open.
10	to one of the -- a car in the garage was open. And	10	MR. MYLAR: Could we just take a break?
11	they were --	11	We've been going for about an hour and a half.
12	Q. Okay. So wait. Just so I can make sure	12	MS. CHECKETTS HIBBERT: Sure. Yeah, let's
13	that we're clear here, I'm going to have you look at	13	take a break.
14	Exhibit 16.	14	(A recess was taken.)
15	(Previously marked Exhibit No. 16 was	15	BY MS. CHECKETTS HIBBERT:
16	referred to.)	16	Q. We're back on the record, Mr. Harper.
17	BY MS. CHECKETTS HIBBERT:	17	And you do understand that you're still
18	Q. I'll have to look at it that way. How about	18	under oath; correct?
19	that?	19	A. Yes.
20	Okay. So is the travel trailer that you're	20	Q. Okay. Now, I'm trying to think where we got
21	talking about this white trailer on the --	21	to.
22	A. West side.	22	Okay. We were looking at Exhibit 16 and you
23	Q. -- west side?	23	had testified that you heard Officer Miles shout
24	A. Yes.	24	words to the effect, "Show me your hands," and you
25	Q. And the right side of the photograph, right	25	were over by the trailer.
	64		65
1	And is it the trailer that's visible in this	1	Q. Could you see anything or anyone in the
2	picture --	2	trunk?
3	A. Yes.	3	A. The angle I was at, I don't recall seeing
4	Q. -- on the right-hand side of the picture?	4	anybody at that time. I remember thinking, because
5	Then how did you enter the garage, if you	5	I'd checked that trunk, like, wow, there's actually
6	recall?	6	somebody in there, you know, because I'd gone -- one
7	A. These doors were closed, so it would have	7	of the first things I did was I would just lift up on
8	been through that same man door.	8	the trunk to see if it was securely latched, which I
9	Q. And when you say "these doors," you're	9	did the first time, before any of the slow and
10	pointing to the roll-up doors, the big doors; right?	10	deliberates. And I remember Brandon was standing at
11	A. That's correct.	11	the car, at the trunk. And that was my first
12	Q. And was the man door, then, on the side of	12	impression was, wow, there's actually been somebody
13	the garage next to the trailer?	13	hiding in that thing this whole time.
14	A. Yes.	14	Q. Okay. So where was Officer Miles standing
15	Q. And do you recall who was in the garage at	15	when you entered the man door?
16	the time?	16	A. He had to have been standing right next to
17	A. I know Brandon Miles was. I mean that's the	17	the car to even get a visual. So, again, I couldn't
18	only one I can verify and be for sure on. I could	18	even tell you what side of the car he was standing
19	speculate on others, which I won't, but I just --	19	on, other than he was speaking to an individual who
20	yeah, I was in the vicinity of that trailer when I	20	was inside the trunk.
21	heard Brandon Miles' voice and I know Brandon well	21	Q. And could you see that individual?
22	and recognized his voice.	22	A. No.
23	Q. Okay. So when you entered the garage from	23	Q. So what did you do next or what did you hear
24	the man door, you saw the trunk open; correct?	24	next?
25	A. Correct.	25	A. The next thing I recall is wanting light to

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1	be inside that garage. And it was a very dark	1	me that drove it or moved it from where it was to
2	environment. And I thought it was in the team's and	2	reposition it or if it was Bob Stirling. I don't
3	everybody's best interest to grab Bob Stirling and	3	recall -- I do recall once it was where we wanted it,
4	exit the garage through the same man door and get a	4	I then proceeded to open one of these windows that you
5	better vantage point by getting in the Suburban and	5	can see here. Again, this is not -- I believe we
6	parking it -- it would have been a little further	6	would have been further to the west.
7	back than what this picture shows, but parking it	7	<b>Q. So let's look at Exhibit 15.</b>
8	perpendicular to where Mr. Calzada was at.	8	(Previously marked Exhibit No. 15 was
9	<b>Q. And when you say "park it a little further</b>	9	referred to.)
10	<b>from what this picture shows," you're pointing to</b>	10	BY MS. CHECKETTS HIBBERT:
11	<b>Exhibit 16. And the white vehicle in this picture</b>	11	<b>Q. And when you pointed to one of these</b>
12	<b>does not appear to be in front of the garage or in</b>	12	<b>windows, are you meaning a window in the back, a long</b>
13	<b>the driveway. So it's your testimony it would have</b>	13	<b>window, the back side window?</b>
14	<b>been backed up -- so was it -- and when you say</b>	14	A. I believe it was this one on the right
15	<b>perpendicular, you mean it would have been across the</b>	15	passenger's side. They also have these things.
16	<b>driveway. As opposed to the usual when you pull into</b>	16	They're called gun ports.
17	<b>a driveway head in, it would have been the --</b>	17	<b>Q. In the door, then, of the second row of the</b>
18	A. Correct.	18	<b>Suburban?</b>
19	<b>Q. -- body -- the length of the Suburban was</b>	19	A. Correct.
20	<b>parallel with the home, correct, or perpendicular to</b>	20	<b>Q. And do you recall, was the Suburban crossing</b>
21	<b>the driveway?</b>	21	<b>the driveway or was it crossing the sidewalk or was</b>
22	A. It was perpendicular to the driveway, yes.	22	<b>it in front of the sidewalk or was it in the street?</b>
23	<b>Q. Okay. And did you drive the vehicle and put</b>	23	A. I know -- I mean we would have -- if I had
24	<b>it in that position?</b>	24	to guess, it was like we repositioned -- and it might
25	A. You know, I couldn't even tell you if it was	25	have been slightly on the sidewalk, but it wasn't in
	68		69
1	the driveway. I mean it was between the sidewalk and	1	<b>The fourth paragraph down where it says --</b>
2	the street.	2	<b>I'm sorry, I guess we're going back to when you were</b>
3	<b>Q. Okay. And going back to your comment a few</b>	3	<b>in the garage prior to getting in the Suburban.</b>
4	<b>moments ago, when you said you needed more light in</b>	4	<b>Can you read the first three sentence, "As</b>
5	<b>the garage, did you do anything to provide more light</b>	5	<b>we were about."</b>
6	<b>to the garage?</b>	6	A. "As we were about to make entry into the
7	A. I didn't, but when we were finally in	7	trailer, I heard B. Miles yell, 'Show me your hands.'
8	position with the Suburban where we wanted to be, I	8	When I looked over I noticed Miles had the trunk of a
9	believe I contacted somebody on the radio and said,	9	vehicle open inside the garage. Miles told me Jose
10	"Hey, okay, hit the garage door button."	10	was inside the trunk and he had a gun inside of his
11	And they opened, in which I could finally	11	mouth."
12	see Mr. Calzada in the trunk. I could see the SWAT	12	<b>Q. So how close did you get to Officer Miles?</b>
13	team members engaging him in conversation, which it	13	A. I'm sure I walked up to the point where -- I
14	just allowed a lot more light inside the garage,	14	mean I can't recall giving you an exact distance, but
15	which is always way more beneficial than to be in the	15	I mean it was to the point I wanted to see who he was
16	dark.	16	talking to.
17	<b>Q. Okay. After the garage doors were opened,</b>	17	<b>Q. And did you see who he was talking to?</b>
18	<b>rolled up, the roll-up doors were opened, and the</b>	18	A. I don't recall.
19	<b>Suburban was in place, where were you physically</b>	19	<b>Q. And when you say that, "Miles told me Jose</b>
20	<b>located?</b>	20	<b>was inside the trunk and he had a gun inside of his</b>
21	A. Inside the Suburban.	21	<b>mouth," did Officer Miles tell that to you like in a</b>
22	<b>Q. In that second row?</b>	22	<b>face-to-face, person-to-person conversation or was</b>
23	A. I believe it was that second row door.	23	<b>that over the radio?</b>
24	<b>Q. Okay. Now, let's go back to your report,</b>	24	A. Well, it was more like, hey, we have him
25	<b>Exhibit 33.</b>	25	here in the trunk and he's got a gun in his mouth.

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1	So I'm sure that was yelled out so that everybody	1	A. I don't recall. There was no engagement,
2	could be aware, because typically, when law	2	there was no dialogue between Mr. Calzada and
3	enforcement comes across a gun, we make it very well	3	Mr. Miles -- or Officer Miles and Officer Beck. It
4	known to everybody else for their own safety that we	4	was -- they were telling him to, you know, drop the
5	have a guy with a gun.	5	gun type thing, and he just wouldn't comply or -- he
6	<b>Q. So when you said, "He told me," it wasn't</b>	6	acted like he didn't even understand what was going
7	<b>just to you?</b>	7	on.
8	A. That's a fair statement.	8	<b>Q. When you say he acted like he didn't</b>
9	<b>Q. Is that correct?</b>	9	<b>understand what was even going on, did you see him?</b>
10	A. Yeah.	10	A. No, but typically, there's --
11	<b>Q. Okay, but did you ever see Mr. Calzada with</b>	11	<b>Q. How do you know that, then?</b>
12	<b>a gun in his mouth?</b>	12	A. Because there was no conversation, there was
13	A. I believe it wasn't until I went out in the	13	just -- he just wasn't doing anything that they were
14	Suburban and I -- once we were in position, the	14	ordering him to do.
15	garage door was finally -- the roll doors, if you	15	<b>Q. How do you know that?</b>
16	will, open, that's when I first saw Mr. Calzada with	16	A. Because they repeated it numerous times.
17	a gun.	17	<b>Q. When you say Jose would not comply with</b>
18	<b>Q. Okay. Will you please read the next</b>	18	<b>their orders, you couldn't see him complying or not</b>
19	<b>sentence beginning with, "Miles and J. Beck."</b>	19	<b>complying, could you?</b>
20	A. "Miles and J. Beck gave Jose" -- sorry, it's	20	A. No, I couldn't.
21	a bad copy -- "very clear instructions to put the gun	21	<b>Q. So why did you put that in your report?</b>
22	down, but Jose would not comply with their orders or	22	A. Because typically when people start
23	even respond to them."	23	complying with orders, they are given new sets of
24	<b>Q. Did you see Mr. Calzada at this point in</b>	24	instructions, such as -- if the gun was -- I'm
25	<b>time?</b>	25	assuming, this is just, you know, as a police
	72		73
1	officer. If the guy complies and puts the gun away,	1	A. Thirty feet, give or take, twenty-five or
2	then the next instruction would be, get out of the	2	thirty feet.
3	trunk, lay on your stomach, put your arms behind your	3	<b>Q. When you were in that position in the</b>
4	back. And it was the same order over and over and	4	<b>passenger row -- or the second row of the Suburban,</b>
5	over. So one could assume that he wasn't doing what	5	<b>looking through the portal, could you see</b>
6	he was instructed to do.	6	<b>Mr. Calzada?</b>
7	<b>Q. So this was an assumption that he did not</b>	7	A. Yes.
8	<b>comply with the orders, not your personal knowledge</b>	8	<b>Q. What could you see of Mr. Calzada?</b>
9	<b>that he didn't comply with the orders?</b>	9	A. Do you mind if I take a look at my report?
10	A. If he would have complied, there would have	10	<b>Q. First, I want to ask you your present</b>
11	been new sets of instructions.	11	<b>recollection, then you can look at your report.</b>
12	<b>Q. So you assumed he hadn't complied; correct?</b>	12	<b>What do you presently recall that you could</b>
13	A. Sure.	13	<b>see?</b>
14	<b>Q. Because you didn't have a visual on him at</b>	14	A. He was inside the trunk.
15	<b>this point?</b>	15	<b>Q. Was he kneeling in the trunk?</b>
16	A. Not that I can recall, no.	16	A. No. He was laying on his back and he had a
17	<b>Q. Okay. Then we talked about you getting into</b>	17	gun, I believe, on his chest.
18	<b>the Suburban and moving it perpendicular at the end</b>	18	<b>Q. What kind of a gun?</b>
19	<b>of the driveway, maybe crossing the sidewalk but not</b>	19	A. A handgun.
20	<b>on to the driveway, correct, or thereabouts?</b>	20	<b>Q. A handgun on his -- and you saw it on his</b>
21	A. Somewhere in there, sure.	21	<b>chest?</b>
22	<b>Q. How far of a distance would you say it was</b>	22	A. Or near his chest.
23	<b>from where the Suburban was parked, that portal that</b>	23	<b>Q. Was he holding it or was it just laying</b>
24	<b>you were looking out of and the trunk where</b>	24	<b>there?</b>
25	<b>Mr. Calzada was?</b>	25	A. He would have been holding it.

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1	Q. Okay. Now, if you want to look at your	1	A. Oh, I'm sorry. "I then" -- you're right, I		
2	report, you can look at it. Okay?	2	probably had a typo there, "jumped in the back seat		
3	A. Okay.	3	and opened one of the gun ports and placed the barrel		
4	Q. Now, does reading this refresh your	4	of my AR15 through it."		
5	recollection as to who made the decision to raise the	5	Q. Okay. Then the next sentence?		
6	garage doors?	6	A. "I advised A. Perez I was in position for		
7	A. No.	7	him to open the garage door."		
8	Q. But you advised Officer Perez that you were	8	Q. And then the garage doors were opened;		
9	in position and that he could raise the garage doors; correct?	9	correct?		
10	A. Again, if that's -- I would definitely trust	10	A. Yes.		
11	the report if that's -- but, yeah, I mean I'm sure I	11	Q. Now, as you previously -- will you read the		
12	let him know at some point that we were in position	12	last three sentences of that or actually just read		
13	and whoever -- I mean I don't know if it was him,	13	the last four sentences and then we'll talk about		
14	because I mean the doors were closed. So I don't	14	them.		
15	know who opened the garage door, but he was advised	15	A. Starting with?		
16	that, hey, hit the garage door buttons and then	16	Q. "A few seconds."		
17	let's, you know, open them.	17	A. Okay. "A few seconds later the garage door		
18	19	18	opened and I saw Jose lying on his back in the trunk		
19	Q. And you advised him this after -- as it says	19	19	of a vehicle. I observed Jose holding a black	
20	according to your report, if you will read this third	20	20	20	colored handgun on his chest. Jose was told numerous
21	sentence of the fifth paragraph, "I them jumped" -- I	21	21	21	times to put the gun down. After a while he
22	think you mean "I then jumped," right, "in the back	22	22	22	eventually put the handgun behind his head and
23	seat"?	23	23	23	dropped the weapon."
24	A. Is that a question?	24	Q. Thank you.		
25	Q. Will you please read that sentence.	25	Did you ever see Mr. Calzada move from the		
	76		77		
1	position of lying down?	1	because he was trying to do it in such a slow manner,		
2	A. To?	2	that my fear was that he was going to pull the		
3	Q. To sitting up, to -- did you ever see him	3	trigger of a rifle and seriously injure or kill one		
4	move to --	4	of our officers that was standing by the car.		
5	A. I saw him move numerous times.	5	Q. Why were you afraid he was going to pull the		
6	Q. Move what part of his body?	6	trigger of a rifle?		
7	A. His arm. He kept reaching -- if I were to	7	A. As opposed to a handgun? I'm not sure what		
8	lie on my back, he kept reaching -- and, again, I	8	the question is.		
9	don't know if it was his left hand or his right hand,	9	Q. Yeah. You testified you could see a		
10	but he was reaching. And Bob Stirling and I kept	10	subwoofer.		
11	saying, "He's reaching for something. What is that	11	Could you see a rifle?		
12	he's reaching for?"	12	A. Well, there was some black object on top of		
13	It appeared there --	13	13	the subwoofer that he made it clear to me that he was	
14	Q. What could you see? Describe visually what	14	14	reaching for. And --	
15	you could see in the trunk.	15	Q. And he reached for it, you said, slowly?		
16	A. It appeared that he was laying next to like	16	A. He was reaching for it slowly, right. And		
17	a subwoofer or a speaker box inside the trunk of the	17	just through training and experience, he wasn't		
18	vehicle, and I only know that because I used to have	18	following orders, and I was in fear that some serious		
19	one. So I remember -- and he kept reaching. And	19	20	bodily injury or death was going to come upon	
20	it's extremely nervous when you have a guy that --	20	officers, was my fear.		
21	there's at least one gun in that car that we observed	21	Q. Wasn't following orders?		
22	him having. And he's engaging with police officers	22	A. No.		
23	or at least he sees that he's surrounded and he keeps	23	Q. Didn't you just state that he'd dropped his		
24	reaching. And so I didn't know what he was reaching	24	weapon?		
25	for. My fear was he was reaching for another gun,	25	A. Well, the instructions of show me your		

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1	hands, keep your hands where I can see them type	1	that something -- he was doing something that was
2	nature, it's very common for police to say that. You	2	going to get somebody hurt.
3	know, there was a lot of yelling and screaming to	3	<b>Q. Okay. Will you read the first sentence of</b>
4	show me your hands from the people that were inside	4	<b>the next paragraph, the, "B. Stirling."</b>
5	the garage.	5	A. The last paragraph of the --
6	<b>Q. Now, did you ever see Jose make any</b>	6	<b>Q. Yeah, the first sentence of the last</b>
7	<b>aggressive movements toward the other law enforcement</b>	7	<b>paragraph.</b>
8	<b>officers?</b>	8	A. "B. Stirling was sitting inside the Suburban
9	MR. MYLAR: Objection, vague as to	9	with me when he told me it appeared there was a rifle
10	aggressive movements.	10	inside the trunk."
11	THE WITNESS: Define "aggressive."	11	<b>Q. Could you see a rifle inside the trunk?</b>
12	Noncompliant to me is -- can be aggressive.	12	A. I couldn't make it out.
13	BY MS. CHECKETTS HIBBERT:	13	<b>Q. Why do you think it was that B. Stirling --</b>
14	<b>Q. But was it in this instance?</b>	14	<b>would that be Bob Stirling?</b>
15	A. His actions -- I was extremely fearful	15	A. Yes.
16	something was about to happen.	16	<b>Q. Why do you think it was that Bob Stirling</b>
17	<b>Q. But you stated he hadn't said a word and</b>	17	<b>could make out the rifle and you could not?</b>
18	<b>that the last thing you wrote was that he dropped his</b>	18	A. Different shadows or, you know, maybe he had
19	<b>weapon?</b>	19	a better vantage point from wherever he was sitting
20	A. I said I didn't hear him engaging with	20	inside that Suburban compared to where I was sitting.
21	Mr. Miles when I was in the garage. Again, this	21	I don't know if there was an obstruction, low light,
22	Suburban is armored, meaning bulletproof. And I have	22	there could have been a number of reasons that he saw
23	one little tiny gun port open, so I had no idea if	23	it and I didn't.
24	there was an engagement after I left the garage, but,	24	<b>Q. So the angle from the Suburban wasn't very</b>
25	yes, his actions, I was growing increasingly nervous	25	<b>good to see what was inside the trunk?</b>
	80		81
1	A. I mean where -- it's never perfect, that's	1	something to do with he's reaching for something, you
2	for sure. It was the best we could do to be in an	2	know, there might be a rifle in there, just take
3	armored vehicle and to -- you know, I thought we were	3	extreme caution.
4	in a great position. I'm just not sure where he was	4	<b>Q. So if you will turn to Exhibit 3, page 32 of</b>
5	sitting when he saw the rifle as opposed to where I	5	<b>49.</b>
6	was sitting.	6	A. Okay.
7	<b>Q. Okay. Then your next sentence, will you</b>	7	<b>Q. Do you recall when Mr. Calzada dropped the</b>
8	<b>read that.</b>	8	<b>weapon behind his head, did you report that action</b>
9	A. "I got on the radio and told the other team	9	<b>over the radio to the other members of the team?</b>
10	members that there may be a rifle in the trunk with	10	A. I don't believe I do, because they would
11	Jose."	11	have had a much better vantage point of seeing up
12	<b>Q. Was there a reason why you got on the radio</b>	12	close than me being some distance away.
13	<b>and said that, as opposed to Bob Stirling?</b>	13	<b>Q. Okay. On page 32 out of 49 of Exhibit 3, if</b>
14	A. No, I don't see any reason why. I just	14	<b>you go down about two-thirds of the way to the entry</b>
15	wanted to let -- if that was what was being believed	15	<b>at 11:12:28. Do you see that?</b>
16	that he was potentially reaching for, I wanted to	16	A. Uh-huh. Yes.
17	make it very clear that there may be a rifle in there	17	<b>Q. Where it says, "Gun is behind head now"?</b>
18	and to let the other officers know for their own	18	A. Yes.
19	safety.	19	<b>Q. Would that have been a communication you</b>
20	<b>Q. Do you recall informing the officers that</b>	20	<b>would have made?</b>
21	<b>there may be a rifle or that there was a rifle?</b>	21	A. You should be able to find out who made that
22	A. I wrote in here that there may be a rifle.	22	transmission.
23	<b>Q. So do you recall what you said to the</b>	23	<b>Q. Do you recall making a transmission to that</b>
24	<b>officers over the radio?</b>	24	<b>effect?</b>
25	A. Verbatim, no, I don't. I'm sure there was	25	A. I don't. No, I don't.

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1	<b>Q. Do you recall hearing a transmission to that effect?</b>	1
2	A. I don't recall, no.	2
3	<b>Q. Do you recall hearing Bob Stirling making any transmissions?</b>	3
4	A. I don't.	4
5	<b>Q. In this scenario, was it Bob Stirling kind of talking to you and then you relaying the information?</b>	5
6	A. In regards to the rifle, I would definitely say yes, since he was the one that saw it and I was the one that got on the radio to make -- to tell them to be very careful.	10
7	<b>Q. Okay. The next entry after "The gun is behind his head now," the next entry is at 11:12:42. Do you see that?</b>	11
8	A. Yes.	12
9	<b>Q. Where it says, "Get shield up here now."</b>	13
10	A. Yes.	14
11	<b>Q. Do you recall making that request?</b>	15
12	A. I personally don't.	16
13	<b>Q. Okay. Then the next entry at 11:13:56, do you see that?</b>	17
14	A. Yes, I do.	18
15	<b>Q. Will you read that entry.</b>	19
24		20
25		21
		22
		23
		24
		25
	84	85
1	A. Again, I've told you, I never saw a rifle. I can tell you he put his hand on top of that speaker box. And if Bob Stirling believed that there may be a rifle or that he was reaching for a rifle, then, yeah, we're going to treat it as though, worst case scenario, he's reaching for something. Just use extreme caution was the only thing I wanted to relay.	1
2	<b>Q. Do you recall the tone of your voice when you were relaying this information to the other officers over the radio?</b>	2
3	A. No, I don't recall the tone of my voice.	3
4	<b>Q. Were you yelling?</b>	4
5	A. I was nervous that something was about to happen. And when you think that somebody potentially is going to do harm to officers, yeah, I could have yelled. I wouldn't doubt that I yelled.	5
6	<b>Q. In your report, in the sixth paragraph, would you read the third sentence.</b>	6
7	A. Starting with, "It was about"?	7
8	<b>Q. Uh-huh. (In the affirmative.)</b>	8
9	A. "It was about that time Stirling and I noticed Jose slowly reaching for what we believed was to be the rifle."	9
10	<b>Q. And you believed this because Bob Stirling thought that maybe it was a rifle?</b>	10
11		11
12		12
13		13
14		14
15		15
16		16
17		17
18		18
19		19
20		20
21		21
22		22
23		23
24		24
25		25

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	86	87
1        Q. Why do you believe he was constantly moving 2        his hands? What's the basis for your belief? 3        A. Because I -- I mean reading and looking at 4        your exhibit, that there's transcriptions that say 5        he's moving his hands, he's moving his hands. 6        Q. So you're saying that this lasted several 7        minutes or several moments? 8        A. I don't know what the difference would be. 9        Q. Well, let's look at your report, Exhibit 33, 10      paragraph 6, where you just read, what, the third 11      sentence, "It was about that time Stirling and I 12      noticed Jose slowly reaching for what we believed was 13      to be the rifle." It says, "I advised team members 14      of Jose's actions." 15      And then what's the next thing you wrote? 16      A. A few moments later I heard numerous shots 17      fired and I noticed Jose had been hit." 18      Q. After advising the team members that Jose 19      was -- I assume you advised them of -- would be you 20      advised them that he appeared to slowly be reaching 21      for a rifle. 22      Did you see any other movements made by 23      Mr. Calzada? 24      A. No. 25      Q. Did you hear him make any statements?	1        A. No. 2        Q. Did you ever hear him make any threats to 3        anyone? 4        A. No, I don't recall any. 5        Q. Did you ever see him move his torso above 6        the floor of the trunk? 7        A. I don't recall that. I don't. 8        Q. Do you recall seeing him move his legs? 9        A. I mean he wasn't as stiff as a board. I 10      mean that would be impossible to lay there, but I 11      mean, again -- 12      Q. Do you recall seeing -- 13      MR. MYLAR: Wait, wait, wait, wait. Let him 14      finish his sentence. 15      Go ahead. 16      THE WITNESS: Moments seem like minutes seem 17      like hours. I mean there were times where all time 18      stops and you're so focused on what is he doing. So 19      I don't recall him kicking his legs, moving his legs, 20      no, I don't. 21      BY MS. CHECKETTS HIBBERT: 22      Q. You don't recall him putting a foot outside 23      the opening of the trunk? 24      A. I don't remember anything like that, no. 25      Q. You read that you heard numerous shots	
	88	89
1        fired, "And I noticed Jose had been hit." 2        How many shots did you hear fired? 3        A. I couldn't even begin to count how many 4        shots were fired. I mean there was numerous. 5        Q. Did you see who was firing those shots? 6        A. No. 7        Q. Did you see Mr. Calzada fire a weapon? 8        A. I did not see him fire a weapon, no. 9        Q. Did you see him aim a weapon? 10      A. No, but my fear was -- if Bob Stirling said 11      he saw a rifle, my fear was it's very easy to put 12      your hand up and pull a trigger. So, no, I didn't 13      see him aim a weapon, but my fear was that he didn't 14      have to aim a weapon to hurt the other officers in 15      the garage. 16      Q. Did you have binoculars in the Suburban? 17      A. No. 18      Q. Is that standard protocol not to have 19      binoculars in the Suburban? 20      A. I have no idea why you would want binoculars 21      on -- I mean that's just stuff -- you pack people in 22      there to get them from one location to another as 23      safely as possible. And I don't know if there's ever 24      been binoculars in the Suburban. I wouldn't have a 25      clue.	1        Q. I thought you testified earlier that you 2        moved the Suburban to get a better visual of a 3        subject. 4        Is that not also the purpose of an armored 5        vehicle? 6        A. Sure. As far as binoculars, I don't know 7        what that has to do with moving the Suburban. 8        Q. Perhaps to get a better view, a more 9        accurate view? 10      A. Well, when I have a rifle sticking through a 11      gun port, I'm not going between my rifle sites and 12      binoculars. 13      Q. Does your rifle site magnify things? 14      A. No, mine does not, or did not, I should say. 15      Q. Going back to Exhibit 3, you read the entry 16      that you informed the team that -- and Miles to step 17      back because the rifle might be pointed right at you. 18      Do you recall that at 11:14:06, at the 19      bottom, toward the bottom of the page? 20      A. Yes. 21      Q. Then the next entry at 11:14:13, will you 22      read that. 23      A. "Get ready to pound him with beanbag." 24      Q. What does that mean to you? 25      A. That would mean that somebody with a shotgun	

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1	that was inside the garage is saying, "Hey, get	1	A. "Miles that barrel is pointed at your
2	ready, I'm going to hit him with a beanbag round soon	2	waist."
3	or just get prepared for it."	3	<b>Q. Do you recall who said that?</b>
4	<b>Q. Do you recall who made the instruction that</b>	4	A. I don't.
5	<b>he was to be pounded with a beanbag?</b>	5	<b>Q. Was it you?</b>
6	A. I wouldn't have a clue.	6	A. I don't believe it was me.
7	<b>Q. Do you recall hearing that transmitted?</b>	7	<b>Q. Do you recall hearing that?</b>
8	A. I don't.	8	A. No.
9	<b>Q. Did you ever hear any command or direction</b>	9	<b>Q. You testified earlier that afterwards you</b>
10	<b>negating that instruction?</b>	10	<b>went and looked at Mr. Calzada; correct?</b>
11	A. Negating as in like canceling that request?	11	A. Correct.
12	<b>Q. Yes. That's a better way of phrasing it.</b>	12	<b>Q. What did you observe?</b>
13	A. No.	13	A. Well, the reason I went up there -- Bob
14	<b>Q. Do you know why the less lethal option of</b>	14	Stirling and I went up there at the same time to --
15	<b>beanbags was not utilized in this instance?</b>	15	he's a paramedic, to see if there was any lifesaving
16	A. The only reason it wouldn't have been used,	16	measures that could be rendered. And I observed
17	especially if somebody's saying that -- get ready for	17	Mr. Calzada laying in the trunk with numerous -- he'd
18	it, is that Mr. Calzada's actions forced somebody to	18	been shot numerous times.
19	believe that they were in fear of their life.	19	<b>Q. Have you ever carried a shotgun with less</b>
20	<b>Q. Or perhaps improper instructions made people</b>	20	<b>lethal beanbags in them, loaded in it?</b>
21	<b>too nervous?</b>	21	A. I can't recall specifics, but I have no
22	A. No.	22	doubt if I was on a deployment with a shotgun and --
23	<b>Q. If you'll read down, it's the bottom entry</b>	23	I would have less lethal with me. That's always an
24	<b>of page 32 onto page 33 of Exhibit 3, at 11:14:34,</b>	24	option.
25	<b>what does it say next?</b>	25	<b>Q. Have you been trained in the use of less</b>
	92		93
1	<b>lethal ammunition?</b>	1	numerous times and I made sure that I -- I started to
2	A. Yes.	2	check are any of the officers shot, are they okay,
3	<b>Q. What part of the body is to be aimed at, if</b>	3	doing one of those things, while somebody more
4	<b>you will, when using less lethal ammunition?</b>	4	trained could deal with Mr. Calzada.
5	A. It's been years since I've been through the	5	<b>Q. Do you recall seeing anything else in the</b>
6	training, but I believe it's major areas, abdomens,	6	<b>trunk besides Mr. Calzada?</b>
7	legs, things like that.	7	A. There was a rifle in the trunk.
8	<b>Q. When you went and observed Mr. Calzada after</b>	8	<b>Q. Where was the rifle?</b>
9	<b>he had been shot, where had he been shot?</b>	9	A. Where we thought it was, on the speaker box
10	A. I couldn't even tell -- I mean I would say	10	or whatever that ended up being.
11	all over. And I know that's a broad term, but --	11	<b>Q. Which way was it facing?</b>
12	<b>Q. Where would you say the majority of the</b>	12	A. I couldn't tell you.
13	<b>bullets had --</b>	13	<b>Q. I'm going to show you what's been marked as</b>
14	MR. MYLAR: I'm going to object, just calls	14	<b>Exhibit 30.</b>
15	for speculation and also lack of foundation.	15	(Previously marked Exhibit No. 30 was
16	But go ahead.	16	referred to.)
17	BY MS. CHECKETTS HIBBERT:	17	BY MS. CHECKETTS HIBBERT:
18	<b>Q. Where did it appear that a majority of the</b>	18	<b>Q. Do you recognize this photograph?</b>
19	<b>bullets had entered his body?</b>	19	A. Yes.
20	A. To be honest with you, I don't even recall,	20	<b>Q. Does this refresh your recollection as to</b>
21	because I'm not one to declare somebody deceased.	21	<b>where it appeared a majority of the bullets entered</b>
22	<b>Q. I wasn't asking whether he was deceased, but</b>	22	<b>Mr. Calzada?</b>
23	<b>you viewed his body; correct?</b>	23	MR. MYLAR: I'm going to object again, lack
24	A. Well, I didn't sit there and examine it, by	24	of foundation, lack of personal knowledge.
25	any means. I could tell this guy had been shot	25	Go ahead.

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1	THE WITNESS: Well, it appears he's been hit	1	walking back to the mobile command and having a
2	in the torso or the upper torso.	2	debrief of some nature of we like to sit inside a
3	BY MS. CHECKETTS HIBBERT:	3	vehicle, a transporter vehicle and just knowing that
4	<b>Q. Do you recall where Officer Miles was</b>	4	we've involved in some type of officer-involved
5	<b>standing? Do you recall on which side of the vehicle</b>	5	shooting and that there was going to be a major
6	<b>he was standing?</b>	6	investigation. And, you know, we typically just
7	A. I believe he was standing on -- I will say	7	remain silent. I mean we ask questions like, "Are
8	the east side of the vehicle.	8	you okay, are you okay?" but we don't talk about what
9	<b>Q. So where Mr. Calzada's feet -- on that side</b>	9	happened.
10	<b>of the vehicle, correct, where his feet are facing?</b>	10	<b>Q. Were you questioned as part of this deeper</b>
11	A. Correct. If I remember right, that's where	11	<b>investigation after the fact?</b>
12	I believe he was standing.	12	A. I remember going to the Roy Police
13	<b>Q. And which way is the rifle pointing?</b>	13	Department and asking, you know, those who were
14	A. In the opposite direction.	14	involved in the shooting, that there was some
15	<b>Q. Do you recall seeing where the handgun was?</b>	15	investigation, but, no, I do not recall being
16	A. I don't.	16	interviewed about it, no, I don't.
17	<b>Q. After Mr. Calzada dropped his handgun behind</b>	17	MS. CHECKETTS HIBBERT: Okay. I don't have
18	<b>his head, as you previously testified, do you recall</b>	18	anything further at this time. Thank you.
19	<b>him touching his handgun again, seeing him touch his</b>	19	MR. MYLAR: Okay. I just have a few
20	<b>handgun again?</b>	20	follow-up questions.
21	A. No, I don't recall.	21	EXAMINATION
22	<b>Q. After you went and saw Mr. Calzada, what did</b>	22	BY MR. MYLAR:
23	<b>you do after that?</b>	23	<b>Q. You had said that you saw him moving his</b>
24	A. We checked to make sure everybody was -- if	24	<b>hand and you weren't sure which hand it was; is that</b>
25	any of the other officers were hit and ended up	25	<b>correct?</b>
	96		97
1	A. Correct.	1	<b>all the way back or what do you remember? Tell us</b>
2	<b>Q. Is it fair to say that he was at least</b>	2	<b>what you remember.</b>
3	<b>moving it more than once toward that gun or do you</b>	3	MS. CHECKETTS HIBBERT: Leading, form.
4	<b>remember one way or the other?</b>	4	MR. MYLAR: It's not leading. I'm asking
5	MS. CHECKETTS HIBBERT: Asked and answered.	5	him an option.
6	BY MR. MYLAR:	6	Go ahead.
7	<b>Q. Go ahead.</b>	7	THE WITNESS: It almost appeared to me that
8	A. I'm sorry. I don't know when to go or not,	8	he was -- I don't know what other term to use, but to
9	but he was making movements. And it wasn't just one	9	bait. It was like he was baiting them to do
10	time, because we were there for a long time. That	10	something to him.
11	would have been the slowest movement if it was just	11	BY MR. MYLAR:
12	once. So he was constantly moving his hands to the	12	<b>Q. By the movement of his hand?</b>
13	speaker box.	13	A. By constantly doing things that you were not
14	<b>Q. Was he sometimes -- I'm going to motion with</b>	14	ordered to do. And I mean, man, if we just saw his
15	<b>my hand, my left hand. There was some evidence from</b>	15	hands the whole time and if he would have just exited
16	<b>other witnesses that it was actually his left hand</b>	16	the vehicle, then this unfortunate thing never had to
17	<b>that he was using, crossing his body, which would be</b>	17	happen. So there was numerous commands to stop doing
18	<b>a little bit farther of a reach, potentially.</b>	18	that, stop moving your hands, keep your hands where
19	MS. CHECKETTS HIBBERT: Leading.	19	we can see them, stop reaching, because it scares --
20	BY MR. MYLAR:	20	it really puts everybody's -- I mean you're just
21	<b>Q. Was he moving it like back and forth and</b>	21	scared for your safety, you're scared for everybody
22	<b>just not moving it all the way back or can you tell</b>	22	else there. I mean what could be done?
23	<b>me which -- he touched the shelf at some point, I</b>	23	I mean, again, I'm not an expert on firearms
24	<b>think you said.</b>	24	by any stretch of the imagination. I don't know
25	Did he kind of like bring it back but not	25	who knew -- we just had no idea what he was doing by

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1	doing that. So it led me to believe that he was	1 at different people to take different action?
2	baiting the officers to shoot him or something,	2 A. Sure. I remember just pleading, getting on
3	because it was just -- he just wasn't following	3 the radio, and, he's reaching, he's reaching, there
4	simple, simple instructions.	4 might be a rifle, get back, like get back, or
5	<b>Q. All right. Is it fair to say it was a</b>	5 something to that effect of just use extreme caution
6	<b>pretty tense few minutes there when he was in the</b>	6 is all I could -- I mean it's like, here I'm in a
7	<b>trunk?</b>	7 vehicle, you know, in an armored vehicle and some
8	A. Very.	8 distance away and I'm just pleading with the guys,
9	<b>Q. Back on this Exhibit 3 that you were asked</b>	9 hey, just make sure you're watching, because I always
10	<b>about earlier, if you could look at page 32 on that.</b>	10 had that fear something was about to happen.
11	A. Is that this one?	<b>Q. Yeah, yeah. And two entries up there, it</b>
12	<b>Q. Yes, 32 of 49, it's actually Exhibit 3. So</b>	<b>says, "Mile step back rifle might be pointed at you."</b>
13	<b>page 32.</b>	<b>You may have said that, but you don't</b>
14	A. Okay.	<b>remember; is that correct?</b>
15	<b>Q. So you can see at the bottom, the last full</b>	A. I very well could have said that, but I
16	<b>entry there, it says, "Keeps moving hand move back</b>	can't put a guarantee, by any means, on it, but those
17	<b>all you guys to house."</b>	were the pleas I was having with everybody in the
18	<b>Do you know whether you said that or not?</b>	garage.
19	A. You know, these are just summaries of what's	<b>Q. All right. Do you remember anyone else</b>
20	being said anyway, so it's hard to say what you said	<b>saying that type of thing?</b>
21	and what you didn't. I mean I think technology	A. Over the radio?
22	exists that they can tell you who keyed the mic and	<b>Q. Yes.</b>
23	whose radio was keying the mic, but I know that's	A. There was a lot of communication. And it
24	beside the point.	was very chaotic, very stressful. So specifics, no,
25	<b>Q. Could some of these in this log be directed</b>	I don't remember what was said or who said what.
	100	101
1	<b>Q. If you'll go up a few more, right to the</b>	other officers that were there in the garage
2	<b>point where it says, "Gun is behind head now." Do</b>	testified, including Miles, I believe, in his
3	<b>you see that?</b>	testimony, said he took the gun and put it back to
4	A. Yes.	the -- with his right hand to the right of his head.
5	<b>Q. Now, other officers that have been deposed</b>	Now, you were in a Suburban and you would
6	<b>in these depositions have indicated that the right</b>	have been looking from this way toward his left; is
7	<b>hand had the gun in his mouth when they first saw him</b>	that correct?
8	<b>and that's what you had heard Miles tell you or other</b>	A. Correct.
9	<b>officers when you started to go to the garage; is</b>	<b>Q. Could you have seen whether he was actually</b>
10	<b>that correct?</b>	<b>holding that gun or not from that direction?</b>
11	MS. CHECKETTS HIBBERT: Misstates prior	MS. CHECKETTS HIBBERT: Leading.
12	testimony.	THE WITNESS: It very well could have been
13	BY MR. MYLAR:	but I didn't see the gun.
14	<b>Q. Is that correct?</b>	BY MR. MYLAR:
15	A. I have no clue what a hand the gun was in.	<b>Q. Okay.</b>
16	<b>Q. What he said.</b>	A. Because it would have been -- I mean by
17	A. He said -- do you care if I take a look at	looking at the pictures and remembering, if it's to
18	this, my report?	the side of his head, yes, I was -- his head would
19	<b>Q. That's fine.</b>	have obstructed the --
20	A. Essentially Brandon said, "He's got a gun in	<b>Q. Completely?</b>
21	his mouth."	A. Yes.
22	<b>Q. Right. So you heard that when you were in</b>	<b>Q. All right. Why did you think that he had</b>
23	<b>the garage?</b>	<b>put the gun down?</b>
24	A. What hand was being -- I don't know.	A. I couldn't even -- I don't know. I was
25	<b>Q. You don't know what hand at all, but the</b>	hoping he was going to give up.

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1	<b>Q. Okay.</b>	1	A. It's always hands.
2	A. I mean I was hoping there would have been a	2	<b>Q. Okay. So you were focused on that.</b>
3	peaceful resolution to this whole thing.	3	A. Right.
4	<b>Q. All right. Yeah. And then you're</b>	4	<b>Q. And you were seeing at least -- were you</b>
5	<b>watching -- it says the gun's behind the head, and</b>	5	<b>seeing one hand or two hands when he was -- you said</b>
6	<b>then it talks about the rifle being pointed. Then it</b>	6	<b>he was reaching for the speaker box, which was where</b>
7	<b>talks about -- here as we get to the bottom of the</b>	7	<b>the AR15 was. Were you seeing ever two hands at the</b>
8	<b>page, keeps moving his hand back and forth.</b>	8	<b>same time ever reach toward that speaker box?</b>
9	<b>Where were your eyes focused during this?</b>	9	A. No. It very well could have been -- with
10	A. I was watching his hands 100 percent.	10	the position he was in, it could have been impossible
11	<b>Q. Okay. And that's the hand that kept</b>	11	for both hands to reach, but, no, we're always
12	<b>reaching toward the AR15?</b>	12	looking for hands, where is his hands going. And,
13	MS. CHECKETTS HIBBERT: Misstates testimony.	13	no, I don't remember him using both hands to reach up
14	MR. MYLAR: No. He just gave his testimony.	14	on top of the speaker box. No, I don't recall that.
15	MS. CHECKETTS HIBBERT: He said, "I was	15	<b>Q. Okay. All right. So when you saw a hand</b>
16	watching his hands," plural.	16	<b>move toward it, it was always a singular hand, there</b>
17	BY MR. MYLAR:	17	<b>was never two hands moving toward that speaker box at</b>
18	<b>Q. Okay. Did you see both hands reach toward</b>	18	<b>the same time?</b>
19	<b>that AR15 ever --</b>	19	A. That's correct.
20	A. I don't --	20	<b>Q. All right. And you've had training on less</b>
21	<b>Q. -- at the same time?</b>	21	<b>lethal or nonlethal weapons; is that correct?</b>
22	A. I mean I don't recall him using both hands,	22	A. Yes.
23	but meaning what was -- your question was what was I	23	<b>Q. If somebody has a gun that you believe may</b>
24	observing?	24	<b>be loaded and you have other guns, would you ever use</b>
25	<b>Q. Yes.</b>	25	<b>the nonlethal weapon there instead of a live</b>
	104		105
1	<b>ammunition in that situation?</b>	1	expect you, especially with such a quick movement, to
2	MS. CHECKETTS HIBBERT: Lack of foundation,	2	ever put -- no, you would never -- in my training and
3	incomplete hypothetical.	3	experience, we would never be told, yep, just take
4	THE WITNESS: I would never use less lethal	4	two or three rounds while you're shooting a beanbag
5	if I believed somebody had a lethal weapon.	5	round at this guy. No, that would not happen.
6	BY MR. MYLAR:	6	BY MR. MYLAR:
7	<b>Q. All right. And in this instance, other</b>	7	<b>Q. And you saw these pictures you were shown</b>
8	<b>reports but also part of your testimony is he had a</b>	8	<b>earlier of Mr. Calzada with his head up a little bit</b>
9	<b>pistol, may have been a rifle, but others did see a</b>	9	<b>and his knees up a little bit. That's not quite the</b>
10	<b>rifle that were in the garage.</b>	10	<b>one I'm looking for. Where's the one that -- maybe</b>
11	<b>Would use of a nonlethal weapon at that</b>	11	<b>it's 16 or 17 here. Let me see here. Not that one.</b>
12	<b>point against Mr. Calzada be indicated when he has</b>	12	<b>So let's look at 17.</b>
13	<b>two guns with him?</b>	13	(Previously marked Exhibit No. 17 was
14	A. Could you rephrase that so I can know	14	referred to.)
15	exactly what you're asking?	15	BY MR. MYLAR:
16	<b>Q. Yeah.</b>	16	<b>Q. In 17, it looks like his head's up a little;</b>
17	If Mr. Calzada had two guns with him, an	17	<b>is that correct? And his knees are up a little; is</b>
18	AR15 and a pistol, and the other officers testified	18	<b>that correct?</b>
19	that he had the pistol still in his right hand the	19	A. Correct.
20	entire time, would it ever be indicated that you must	20	<b>Q. And if an officer is over here, which would</b>
21	use a nonlethal round in that situation?	21	<b>be to the extreme left of this picture, it looks like</b>
22	MS. CHECKETTS HIBBERT: Leading, misstates	22	<b>he's got potentially a groin shot, between his legs,</b>
23	prior testimony, incomplete hypothetical, lack of	23	<b>or that he would hit his legs.</b>
24	foundation.	24	<b>If someone has a pistol in their hand and</b>
25	THE WITNESS: Nobody in the world would	25	<b>they hit his legs, what good is that in terms of</b>

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1	protecting the officers from that pistol in his hand?	1	Q. All right.
2	MS. CHECKETTS HIBBERT: Leading.	2	MS. CHECKETTS HIBBERT: And I'm just going
3	THE WITNESS: It wouldn't protect them.	3	to place an objection to that question on the record,
4	BY MR. MYLAR:	4	I forgot to do it, as leading.
5	Q. If someone was shot in the knee with a	5	BY MR. MYLAR:
6	beanbag and they had a pistol in their hand, would	6	Q. Okay. And in your nonlethal weapons
7	they still -- would they or would they not be able to	7	training, if you can't get a clear shot to the
8	still bring that pistol around and shoot the	8	abdomen or the legs but there's danger of hitting the
9	individuals?	9	head, what were you taught regarding that kind of a
10	A. Very capable of still shooting.	10	shot? Should you take it or should you not take it?
11	Q. Now, again, if they're doing this -- if	11	MS. CHECKETTS HIBBERT: Leading.
12	they're standing again to the extreme left of this	12	MR. MYLAR: It's not leading. I'm giving
13	picture over by the -- in the garage, some of them	13	him an option.
14	are in the garage and right to the edge of the	14	THE WITNESS: Should you take --
15	garage, they are shooting almost the length of his	15	BY MR. MYLAR:
16	body toward his head. The head's at least a	16	Q. Is that indicated in your training that you
17	dangerous target there for them to hit.	17	would take that kind of a shot if it's --
18	Is it or is it not ever indicated that you	18	A. With a beanbag round --
19	use a nonlethal weapon against somebody's head? Were	19	Q. Yes.
20	you ever taught that?	20	A. -- to be used as a less lethal option?
21	A. No, that's not a target you would -- what am	21	Q. Yes, that could hit his head.
22	I trying to say? That's not -- I can't even find the	22	A. No, that would be highly discouraged. You
23	words. No, that would not be wise to be shooting	23	wouldn't even attempt that.
24	somebody in the head with a beanbag, because that	24	Q. All right. So you were in the Suburban with
25	very well could be a lethal shot.	25	your AR15 through the gun port, I think you testified
	108		109
1	earlier; is that correct?	1	jumped on him.
2	A. Yes.	2	MS. CHECKETTS HIBBERT: Sorry. Sorry.
3	Q. And is it possible that Bob Stirling, if he	3	BY MS. CHECKETTS HIBBERT:
4	was not in the gun port, could he have had a better	4	Q. In either hand did you see a gun?
5	view of this trunk than you did?	5	A. I saw a gun when I -- when the garage door
6	A. Sure.	6	was first opened, because it was laying on his chest.
7	MR. MYLAR: I don't have any further	7	Q. After you saw him put the gun behind his
8	questions.	8	head, you later said that you saw his hands moving,
9	MS. CHECKETTS HIBBERT: I just have a couple	9	his hands kept moving.
10	of follow-up questions.	10	Did you see a gun in either hand?
11	FURTHER EXAMINATION	11	A. No.
12	BY MS. CHECKETTS HIBBERT:	12	Q. You testified that he was not complying
13	Q. Now, your attorney asked you if you ever saw	13	because he'd been told, "Show us your hands," and he
14	more than one hand reaching up toward the subwoofer	14	kept moving his hands.
15	where you believed there was a rifle, and you stated	15	If you could see his hands, how was that not
16	no, but you also testified that you could see	16	showing you his hands?
17	Mr. Calzada's hands moving; correct?	17	A. He was not complying, because he was not
18	A. When I say hands, I mean -- I may	18	coming out of the trunk.
19	interchange that with -- may have used a plural, but	19	Q. Was he ever asked to come out of the trunk?
20	there was furtive movement is essentially what I	20	A. I don't know. I was in the Suburban in
21	meant to say. There's always some movement going on	21	almost a soundproof, bulletproof vehicle, but when
22	and I can't tell you exactly which hand.	22	you say, "Show me your hands," again, if they saw
23	Q. In either hand did you ever --	23	both hands and he was complying, then a new set of
24	MR. MYLAR: Let him finish his sentence,	24	instructions would start, which would be, okay, exit
25	please. I think he did finish it, but you kind of	25	the vehicle, lay on the ground. So, no, I don't ever

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1	imagine that if he was complying with their orders by	1	<b>Mr. Calzada should get out of the vehicle, did you?</b>
2	showing his hands, it clearly wasn't happening	2	A. I personally did not hear those set of
3	because he kept reaching towards the rifle.	3	instructions, no, which led me to believe he wasn't
4	<b>Q. So in the Suburban, you could not hear what</b>	4	even complying with the first set of orders, which
5	<b>was being shouted at Mr. Calzada, you could only hear</b>	5	was show me your hands, because then we moved to the
6	<b>what was over the radio.</b>	6	next step and that didn't happen.
7	<b>Is that your testimony?</b>	7	<b>Q. But you testified, and someone else said</b>
8	A. I could hear -- again, please keep in mind	8	<b>over the dispatch, that they could see his hands</b>
9	this gun port is this big and it's just enough to get	9	<b>moving.</b>
10	pretty much the barrel of a rifle through.	10	<b>So his hands were not hidden; correct?</b>
11	MR. MYLAR: How big? Just like	11	A. That's not correct.
12	three inches? She can't see you -- the transcription	12	<b>Q. What's incorrect about that?</b>
13	can't see the size of your hands there.	13	A. That very well could have been interpreted
14	THE WITNESS: Oh, I'm sorry. I don't know	14	as he's moving, he's moving. Hands, hand, it was all
15	what three inches is, but it's enough -- I mean it's	15	very suspicious or movements -- furtive movements
16	less than a baseball, I'll say that.	16	that make people nervous, very nervous, especially if
17	MR. MYLAR: Okay. Sorry.	17	they'd already seen him with a gun.
18	THE WITNESS: No, you're fine.	18	<b>Q. What furtive movement did you see aside from</b>
19	So there was a lot of shouting going on.	19	<b>him slowly reaching toward the subwoofer?</b>
20	The specifics, I could only assume what they were	20	A. I don't recall any other behaviors or
21	asking, which is every officer just says as long as	21	movements per se, but, again, where there was a
22	we can see both hands are empty and no weapons, then	22	weapon involved, it's just -- and you're not doing --
23	we move on to a new set of orders.	23	and it's just -- it has nothing to do with other than
24	BY MS. CHECKETTS HIBBERT:	24	we all want to go home, nobody wants to get shot.
25	<b>Q. But you never heard any order that</b>	25	Nobody wanted to shoot Mr. Calzada, I can assure you
	112		113
1	that, but if you're not following simple, basic	1	have.
2	instructions that -- it makes people extremely	2	MR. MYLAR: I just have a couple of
3	nervous when we knew that there was at least one gun	3	follow-ups from that.
4	in the vehicle. So...	4	<b>FURTHER EXAMINATION</b>
5	<b>Q. But I'm just trying to have you clarify your</b>	5	BY MR. MYLAR:
6	<b>testimony.</b>	6	<b>Q. As you sit here today, can you recollect at</b>
7	<b>When you said his hands were making furtive</b>	7	<b>that time ever seeing this right hand actually empty?</b>
8	<b>movements, I want to know what those furtive</b>	8	A. I don't recall.
9	<b>movements were that you saw, not that you assumed --</b>	9	<b>Q. All right. Also, after he was shot, do you</b>
10	A. Sure.	10	<b>remember seeing a gun on his chest, a pistol?</b>
11	<b>Q. -- but what you saw.</b>	11	A. After we walked up?
12	A. I answered one hand was constantly going up	12	<b>Q. Yes.</b>
13	to the speaker box that I could see.	13	A. I don't recall where the handgun was.
14	<b>Q. Constantly.</b>	14	<b>Q. All right. Do you remember somebody -- I'm</b>
15	<b>Your prior testimony was you couldn't</b>	15	<b>not sure if it was Stirling or who it was, but do you</b>
16	<b>testify whether it was even more than once?</b>	16	<b>remember if somebody -- somebody taking that gun out</b>
17	A. No. My testimony said if it was once, it	17	<b>of his hand and putting it on the ground on the</b>
18	was the longest movement. And there was minutes that	18	<b>cement in the garage? Do you remember that at all?</b>
19	evolved, so there was more than one movement toward	19	A. No, I don't.
20	the speaker box. I can't give you an exact count,	20	MR. MYLAR: All right. I don't have anymore
21	but it wasn't one constant, long, drawn-out movement.	21	questions.
22	<b>Q. But that would be the only furtive movement</b>	22	My client wants the right to be able to
23	<b>you can identify at this time?</b>	23	review the deposition and sign it. And you can send
24	A. From my standpoint in the Suburban, yes.	24	it to Salt Lake City Police Department, 475 South 300
25	MS. CHECKETTS HIBBERT: I think that's all I	25	East. (Concluded at 5:11 p.m.)

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<p style="text-align: center;">114</p> <p>1 STATE OF _____ CERTIFICATE 2 ) :ss. 3 COUNTY OF _____ 4 5 I HEREBY CERTIFY that I, _____ 6 (DEPONENT PRINT FULL NAME) have read the testimony 7 consisting of _____ pages, and the same is a true and 8 correct transcription of said testimony with the 9 exception of the corrections I have listed below in 10 ink. 11 12 Page _____ Line _____ Correction _____ 13 Reason for change _____ 14 Page _____ Line _____ Correction _____ 15 Reason for change _____ 16 Page _____ Line _____ Correction _____ 17 Reason for change _____ 18 Page _____ Line _____ Correction _____ 19 Reason for change _____ 20 Page _____ Line _____ Correction _____ 21 Reason for change _____ 22 Page _____ Line _____ Correction _____ 23 24 NOTARY PUBLIC 25 My Commission Expires: _____</p>	<p style="text-align: center;">115</p> <p>1 CERTIFICATE 2 3 This is to certify that the witness in the 4 foregoing deposition was duly sworn to testify to the 5 truth, the whole truth, and nothing but the truth in 6 the within-entitled cause; 7 8 That said deposition was taken at the time and 9 place herein named; 10 11 That the testimony of said witness was reported 12 by me in stenotype and thereafter transcribed into 13 written form; 14 15 That review of this deposition was requested 16 and, therefore, pursuant to Rule 30(e) of the Utah 17 Rules of Civil Procedure the witness shall have 30 18 days in which to review and make changes to the 19 transcript. 20 21 I further certify that I am not of kin or 22 otherwise associated with any of the parties of said 23 cause of action and that I am not interested in the 24 event thereof. 25</p> <p style="text-align: center;"> Teena Green, RPR, CSR, CRR, CBC</p>
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